

RESOLUTION NO. 2017-102

REPEALING CHAPTER 410 OF THE CODIFIED RULES AND REGULATIONS OF THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY AND ENACTING A NEW PROCUREMENT CHAPTER 410.

WHEREAS, pursuant to Resolution No. 1989-176, the Board of Trustees of the Authority codified the resolutions establishing its policies and procedures; and

WHEREAS, over the years, many of the resolutions have been amended; and

WHEREAS, at the present time, the Authority deems it necessary to review, revise and update the Codified Rules and Regulations of the Greater Cleveland Regional Transit Authority; and

WHEREAS, the Authority has conducted a review and determined that certain chapters need to be added to reflect the current Procurement Policy of the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That Chapter 410 is hereby repealed in its entirety.

Section 2. That the attached procurement chapter, Chapter 410, is hereby enacted.

Section 3. That this resolution shall become effective immediately upon its adoption.

Attachment A: Chapter 410

Adopted: November 21, 2017



President

Attest: 

CEO, General Manager/Secretary-Treasurer

ATTACHMENT A
POLICIES AND
PROCEDURES OF THE
BOARD OF
TRUSTEES CODIFIED RULES
AND REGULATIONS OF THE
GREATER CLEVELAND REGIONAL TRANSIT
AUTHORITY

PART FOUR - FINANCE CODE

CHAPTER

410

~~Contracts and~~
Procurement

~~410.01 Competitive~~
~~bidding/contracting.~~

~~410.02~~ 410.01 Procurement

~~p~~ Policies, and procedures

410.02 Procurement Manual.

410.03 State Cooperative Purchasing
Program.

~~410.04 State and Federal Surplus~~
~~Property Purchasing~~
~~Program.~~

410.05 410.04 Ohio Department
of Transportation
Cooperative Purchasing
Program.

CROSS REFERENCES

~~Purchase or operation of buses - see 49 U.S.C.A. 53091602(f) Expenditure of~~
~~funds in connection with acquisition of buses, bus~~

~~equipment, or bus related facilities - see 49 U.S.C.A. 1602(h)5309~~

~~Authority to make contracts - see Ohio R.C. 306.35(B)~~

~~Authority to apply for and accept grants or loans - see Ohio R.C. 306.35(R)~~

~~Authority to enter into and supervise franchise agreements - see~~
~~Ohio R.C. 306.35(O), (P)~~

Bidding procedure - see Ohio R.C. 306.43

Bid Guaranty – see Ohio R.C. 153.54, Ohio R.C. 9.313
~~Contracts with other governments – see Ohio R.C. 306.44~~
Ethics – see Ohio R.C. 102, 2921.42, 2921.421, 2921.43; PERS. Ch. 660, 640.02
Contracts generally - see Bylaws Art. VII Expenditures - see Bylaws Art. VII,
Sec. 3
Nondiscrimination in contracts and purchase orders - see Bylaws
Art. VII, Sec. 5
Auditing of contracts - see ADM. Ch. 262.07
Finance and Administration Division - see ADM. Ch. 286
Contracts for security service - see ADM. Ch. 298.02
~~Debt policies – see FIN. Ch. 420~~
Delegations of Authority – see Ohio R.C. Chapter 306
Procurement regulations – see FTA Circular 4220.1 (current version); Ohio
R.C. 306.43.
Federal guidance for procurement – see FTA’s Best Procurement Practices
Manual (current version)
Exclusions from this Policy – see Ohio R.C. Chapter 135; ADM. Ch. 470; Travel
Policy – TBD
Ethics – see Ohio R.C. Chapters 102 and 292; the Authority’s Code of Ethics
Disadvantaged Business Enterprises – see 49 CFR 26
Debarment – see 31 U.S.C Sec. 6101, note; 49 CFR Part 29
Disposition of Property – see Ohio R.C. 306.43
Electronic Purchases – see Admin. Procedure 043
Rolling Stock – see 49 U.S.C. Sec. 5323; 49 CFR Parts 639, 663, and 665; VEH
Ch. 822
Real Estate – see ADM Ch. 470
Arts in Transit – see SERV. Ch. 1088
Pilot Programs – see ADM. Ch. 242

410.01 COMPETITIVE BIDDING.

~~(a) The requirement of competitive bidding, as provided by Ohio R.C. 306.43, is hereby determined to be effective for all expenditures of the Authority in excess of fifteen thousand dollars (\$15,000).
(Res. 1988-6. Passed 1-5-88.)~~

~~(b) The staff member having responsibility for procurement for the Authority is hereby authorized to advertise for competitive bidding the procurement of any and all goods and services required by the Authority in the performance of its transit operation the cost of which is anticipated to exceed fifteen thousand dollars (\$15,000).~~

~~(c) As an exception to subsection (b) hereof, the Board of Trustees reserves to itself the authority to authorize advertising if the Authority incurs or will incur an expenditure exceeding fifteen thousand dollars (\$15,000) in the development of the terms and specifications for the underlying procurement.~~

~~(d) The General Manager/Secretary-Treasurer is hereby authorized to require a request for bidding to be submitted to the Board for approval.
(Res. 1988-17. Passed 1-19-88.)~~

410.01 PROCUREMENT POLICIES

(a) The Procurement Policies of the Authority are as follows:

- (1) Purpose. These Procurement Policies identify the regulations and processes that govern all Authority personnel involved in the procurement and contract administration process. The Policies cover the entire range of procurement activities and their requirements are binding on all Authority personnel.
- (2) Scope of Policy. Except as otherwise specified herein, all purchases and dispositions of equipment, materials, goods and services to or by the Authority involving either an expenditure of public funds or revenue from Authority assets whether by sale, lease, rental or otherwise shall be governed by these Policies. The general requirements herein shall apply except as altered or excluded for specific types of procurements.
- (3) Exclusions. The following activities are excluded from this Policy:
 - i. Acquisition or disposition of any rights in real property, excepting contracts with professional consultants or brokers in connection therewith;
 - ii. The sale of debt securities or sale/leaseback or lease/leaseback transactions, except for contracts with professional consultants or brokers in connection therewith;

- iii. Payments for items mandated by law, regulation, or agreements other than procurement contracts entered into by the Authority;
- iv. Training, professional development and other routine administrative expenses which are specifically identified in the Authority's budget;
- v. Purchases or reimbursement to employees for travel or similar expenses incurred on behalf of the Authority under the Authority's other policies and procedures;
- vi. The designation of eligible depositories for the Authority's active, interim and inactive funds pursuant to Chapter 135 of the Ohio Revised Code; and
- vii. Action regarding employee-related matters under the Personnel Code, excepting contracts with professional consultants in connection therewith.

(4) Governance. As a political subdivision of the State of Ohio, the Authority is governed by the applicable portions of the Ohio Revised Code. The primary governance for procurement actions is Ohio R.C. 306.43. As a third-party grantee of the federal government, the Authority is also governed by applicable federal laws and regulations. The primary federal governance for procurement activities is FTA Circular 4220.1, as it may be amended or replaced. The FTA Best Practices Procurement Manual, Federal Acquisition Regulations and other sections of the Ohio Revised Code, while they may or may not be binding on the Authority, shall be used for guidance to the extent matters covered herein are not addressed by governing laws or regulations.

(5) Structure of Procurement Department. The Procurement Department shall have a sufficient degree of autonomy within the Authority to function effectively as part of a check and balance system governing Authority acquisitions and dispositions.

(6) Procurement Ethics. No Authority employee, officer, agent or board member may participate in the selection, award, or administration of a contract supported with FTA assistance if that individual, his or her immediate family member, partner or an organization that employs or is about to employ any of the foregoing has a financial or other interest in a firm being considered or selected. "Immediate family" shall have the same meaning as defined in the Authority's Code of Ethics.

No Authority employee, officer, agent, or board member shall accept anything of value from a party who is doing or seeking to do business with the Authority that could have a substantial and improper influence upon that employee, officer, agent or board member, in accordance with the Ohio Revised Code and the Authority's Code of Ethics.

- (7) Organizational Conflicts of Interest. Procurements shall be conducted with full and open competition to the greatest extent possible. No undue geographical, economic or technical restrictions shall be imposed. A vendor deemed to possess an unfair competitive advantage or to possess a bias preventing it from impartially performing the work or services on behalf of the Authority shall be precluded from award of contracts.
- (8) Delegations of Authority. The Board hereby delegates to the CEO, General Manager/Secretary-Treasurer of the Authority the following responsibilities:
- i. Authorize purchases, sales, dispositions, and other procurement actions which, by federal or state requirements, do not require formal solicitation or approval by the Board;
 - ii. Approve all funding encumbrances and authorizations to proceed with solicitation for acquisitions and dispositions of goods, equipment, and services for or by the Authority;
 - iii. Upon authorization by the Board, execute contracts exceeding \$100,000.00 in value;
 - iv. Terminate any contract if deemed to be in the best interest of the Authority;
 - v. Approve change orders on contracts not exceeding \$100,000.00, in a net amount that does not cause the total amount of any such contract to exceed \$100,000.00, and approve change orders on other contracts in a net amount not to exceed the following limits: \$100,000.00 for contracts up to \$1,000,000.00; the lesser of 10% or \$250,000.00 for contracts between \$1,000,000.00 and \$5,000,000.00; and \$500,000.00 for contracts over \$5,000,000.00. The Board may, by resolution, vary these limits for particular contracts or projects; and
 - vi. Re-delegate any of the powers granted herein, provided, however, that the CEO, General Manager/Secretary-Treasurer shall retain responsibility for all actions taken as a result of re-delegation of authority hereunder.

The Board hereby delegates to the CEO, General Manager/Secretary-Treasurer and the Authority's Director of Procurement the following responsibilities:

- i. Authorize all purchases, sales, dispositions and other procurement actions which, by federal or state requirements or these Procurement Policies, do not require formal solicitation or approval by the Board;
- ii. Execute contracts not exceeding \$100,000.00 in value or otherwise requiring Board approval;
- iii. Advertise for procurements as required by law or regulation or when otherwise deemed to be in the best interest of the Authority;

- iv. Cancel procurements;
- v. Determine the lowest responsive and responsible bidder;
- vi. Determine when acceptance of an offer resulting from a negotiated proposal is in the best interest of the Authority;
- vii. Reject any or all bids or proposals when it is determined to be in the best interest of the Authority;
- viii. Determine whether an exception to competition is applicable, in accordance with Ohio R.C. 306.43;
- ix. Review, respond to, negotiate and settle protests, claims and disputes related to procurement actions or contracts; and
- x. Re-delegate any of the powers granted herein, provided, however, that the CEO, General Manager/Secretary-Treasurer shall retain responsibility for all actions taken as a result of re-delegation of authority hereunder.

- (9) Procurement Planning, Specifications, and Scopes of Services. The initiating department shall be responsible for identifying and justifying its procurement needs, as well as preparing specifications and/or a scope of services for the Procurement Department. Specifications should identify the Authority's minimum needs and avoid restrictive provisions such as identification of name brands to the greatest extent possible. Specifications must be approved by the head of the initiating department, the Safety Department, when applicable, the Director of Procurement, and any others designated by the Director of Procurement, prior to issuance. The initiating department is also responsible for preparing an estimate of the cost of the item or service.
- (10) Disadvantaged Business Enterprises. The Authority shall work to ensure the participation of Disadvantaged Business Enterprises (DBEs) in its procurements, as well as contractor compliance with all applicable laws and regulations. The Authority shall use its best efforts to encourage fair and representative participation of DBEs on procurements, either as prime contractors or as subcontractors. Moreover, the Authority shall determine the opportunity for DBE participation on all procurements in the amount of \$25,000 or more and, where qualified DBEs are identified, solicitations for such procurements shall include at least one DBE among the contractors solicited.
- (11) Debarment. The Authority shall not award contracts to firms that are debarred by the state or federal governments. Debarment by other government entities may be considered in determining a contractor's responsibility but shall not necessarily preclude award to the debarred vendor.
- (12) Change Orders. Change orders are contract amendments altering the scope, price or schedule of the original contract. Approval of change orders shall be in accordance with the delegations of authority

prescribed in this Chapter. No work under a change order may be authorized prior to such approval, except upon the written direction of the CEO, General Manager/Secretary-Treasurer. Change orders determined to be cardinal changes to the contract are prohibited. Cardinal changes are changes which alter the essential nature, quantity or scope beyond the reasonable contemplation of the parties at the time of contract execution, or which result in a final product substantially different than that for which the Authority originally contracted.

- (13) Protests, Claims and Disputes. The Authority shall review, process, and adjudicate procurement protests, claims, and disputes in the manner prescribed by applicable federal and/or state regulations. The Authority's procedure for handling protests, claims, and disputes shall be contained in the Authority's Procurement Manual and made available to vendors upon request.
- (14) Procurement Types for Formal Contracts. For formal contracts (those for which the Board has not delegated its purchasing authority and any others so designated by the CEO, General Manager/Secretary-Treasurer), the Authority shall procure and dispose of personal property as prescribed by applicable state and federal laws and regulations. The Authority may use any type of contract that is consistent with applicable laws and regulations.
- (15) Small Purchases. Purchases reasonably estimated not to exceed the small purchase limit of \$100,000.00 may be procured informally, provided that a record is maintained consistent with applicable laws and regulations. Price or rate quotations shall be obtained from an adequate number of qualified sources to permit a reasonable comparison consistent with the nature of competitive negotiation within the given circumstances.
- (16) Contract Pricing. The Authority may utilize firm fixed price or fixed unit price not-to-exceed contracts for sealed bid procurements as well as negotiated procurements. Such contracts may allow price escalation based on actual costs or a generally recognized index, provided that the escalator has a defined upper limit. The Authority may also use a cost plus fixed fee contract or any other type of contract permitted by applicable laws or regulations; however, for negotiated procurements, it may not use a cost plus percentage fee type of contract. The Authority may use indefinite quantity or indefinite delivery contracts where appropriate but may not use an indefinite quantity and indefinite delivery contract. The Authority may use a time and materials type of contract only if no other form is suitable and if the contract contains a not-to-exceed ceiling. The Authority may utilize progress payments to the extent consistent with law and regulation, provided that it obtains or secures value consistent with the amount paid. The Authority shall

not make advance payments unless specifically authorized by the Director of Procurement or the CEO, General Manager/Secretary-Treasurer.

- (17) Sealed Bid Procurements. The Director of Procurement may direct that sealed bids be invited. If less than two responsive bids are received for a sealed bid solicitation, the Director of Procurement, in this single bid situation, may either (1) negotiate price with the responsive bidder or (2) cancel the solicitation.
- (18) Competitive Negotiated Procurements. The Director of Procurement may direct that competitive negotiated proposals be solicited. Competitive negotiated procurements must be conducted in a manner that preserves the integrity of the procurement process. To the extent permitted by law, regulation or court decision, the evaluation of proposals shall be conducted in a confidential manner, and all confidential or proprietary information shall be held confidential.
- (19) Two-Step Procurements. The Director of Procurement may direct that a two-step procurement process be utilized. This process shall consist of a negotiated technical proposal followed by a sealed bid from those firms whose technical proposals are acceptable.
- (20) Non-Competitive Procurements. The Director of Procurement may prescribe that a non-competitive procurement is justified based on applicable laws and regulations. If any such procurement exceeds the small purchase authority prescribed herein, Board approval is required. Contracts entered into on the basis of a non-competitive procurement must be in the best interest of the Authority, and the price shall be fair and reasonable, as determined by the Director of Procurement.
- (21) Design Services. Architectural and engineering services, value engineering services, and incidental services related thereto, as defined in 40 U.S.C. Sec. 541 et seq. (Brooks Act), shall be conducted as negotiated procurements, except that selection shall be made of the most technically qualified firm without consideration of price. Price shall be negotiated with the selected firm. If agreement cannot be reached with the most qualified firm, the process is repeated with the second most qualified firm, continuing until agreement is reached, or the pool of technically acceptable firms is exhausted, at which point the procurement must be cancelled.
- (22) Design/Build Services. To the extent permitted by law and regulation, the Authority may solicit the services of a single firm or entity to both design and build a construction project. Such solicitations shall be conducted in the manner prescribed by the Ohio Revised Code. If such

procedure violates the provisions of federal law or regulation, design build services may not be used in projects involving federal funds.

- (23) Construction Services. Solicitations for construction, improvement or repair of facilities shall be conducted as sealed bid procurements. To the extent required by law or regulation, solicitations shall require that the award shall be made to the lowest responsive bid from a responsible bidder. The contractor must conform to the prevailing wage requirements defined in Ohio R.C. Chapter 4115 if no federal funds are involved or the Davis-Bacon Act (40 U.S.C. 276a et seq.) and the Copeland Act (40 U.S.C. 276c et seq.) if federal funds are involved.
- (24) Incentive Payments and Liquidated Damages. The Authority may, under appropriate circumstances, utilize incentives to encourage extraordinary vendor performance or, alternately, provide for liquidated damages to protect the Authority from losses due to vendor non-performance. It may not impose financial penalties that are punitive in nature. Liquidated damages must be calculated and documented prior to the issuance of the solicitation on the basis of the anticipated actual loss to the Authority resulting from vendor non-performance.
- (25) Bid Guaranty. A bid guaranty shall be required for all contracts for construction, alteration, or repair of any public building or other public improvement in the manner described by the Ohio Revised Code. The Authority may require a bid, performance and/or payment guaranty when it is determined, by the Director of Procurement, to be in the Authority's best interest. The bid guaranty shall be required as directed by the Director of Procurement, upon the advice of the Risk Management Department. The Director of Procurement may authorize the reduction of any bond supplied for the rendering of services or the supplying of materials to the extent permitted by the Ohio Revised Code.
- (26) Rolling Stock. The Authority may procure rolling stock by either negotiated procurement or sealed bid. Rolling stock shall be defined to include transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services. Solicitations for rolling stock shall require compliance with all applicable standards regarding dimensions, weight, accessibility and safety. Unless specifically authorized by the CEO, General Manager/Secretary-Treasurer, the Authority shall not procure rolling stock that has not been tested in accordance with the Code of Federal Regulations, as applicable. The Authority shall conduct pre-award and post-delivery audits as required by the Code of Federal Regulations.
- (27) Electronic Procurements and Purchasing Cards. The Authority may utilize electronic means, to the extent consistent with legal and

regulatory requirements, to conduct any procurement defined herein. Employees and officers of the Authority designated by the Board may use purchasing (credit) cards.

- (28) Disposition of Property. The Authority may sell personal property, including capital equipment and surplus or obsolete parts and supplies, by sealed bid, public auction or online auction. The Authority may otherwise dispose of property in accordance with applicable laws and regulations. Trade-in of used equipment towards the purchase of new equipment shall also be permitted. Sale of capital assets whose fair market value is estimated to exceed the small purchase limit shall be authorized by the Board. Sale of federally funded capital assets that have not exceeded their useful life as established by the Federal Transit Administration shall be authorized by the Board.

(Res. 2017-XXX. Passed XX-XX-17.)

410.02 PROCUREMENT POLICIES AND PROCEDURES MANUAL.

(a) There is hereby adopted by and for the Authority the Procurement Policies and Procedures Manual, dated September 23, 2008. The Authority shall maintain a Procurement Manual, which shall contain the Authority's policies and procedures relating to procurement. The Procurement Manual may be revised from time to time, in accordance with these policies and state and federal law.

(b) This section rescinds all previous resolutions pertaining to procurement policies and procedures, including, but not limited to, Resolutions 1988-60, 1990-129, 1995-61, 1999-18 and 2002-186.

(c) Amendments to the Procurement Policies and Procedures Manual shall be presented to the Board of Trustees periodically for its review and approval.
(Res. 2008-141. Passed 9-23-08. Res. 2017-XXX. Passed XX-XX-17.)

(EDITOR'S NOTE: Because the Procurement Policies and Procedures Manual, adopted in Section 410.02, is separately published, it is not included in these codified Policies and Procedures of the Board of Trustees of the Greater Cleveland Regional Transit Authority. Copies may be examined, or obtained at cost, in the office of the CEO, General Manager/Secretary-Treasurer or the Director of Procurement.)

410.03 STATE COOPERATIVE PURCHASING PROGRAM.

(a) The CEO, General Manager/Secretary-Treasurer hereby requests is hereby authorized authority, in the name of the Greater Cleveland Regional Transit Authority, to participate in State contracts which the Department of Administrative Services ("DAS"), Office of State Purchasing, has entered into for the purchase of supplies, services, equipment and certain materials pursuant to Ohio R.C. 125.04.

(b) The CEO, General Manager/Secretary-Treasurer is hereby authorized to and shall agree, in the name of the Authority, to be bound by all contract terms and

conditions as the Department of Administrative Services, Office of State Purchasing DAS, prescribes. Such terms and conditions may include a reasonable fee to cover the administrative costs which the Department DAS incurs as a result of the Authority's participation in a contract. Further, the General Manager/Secretary-Treasurer does hereby agree to be bound by all such terms and conditions.

(c) The CEO, General Manager/Secretary-Treasurer is hereby authorized to and shall agree, in the name of the Authority, to directly pay the vendor under each such State contract in which it participates for items it receives pursuant to the contract, and the General Manager/Secretary-Treasurer does hereby agree to directly pay the vendor. (Res. 1990-069. Passed 4-17-90. Res. 2017-XXX. Passed XX-XX-17.)

~~410.04 STATE AND FEDERAL SURPLUS PROPERTY PURCHASING PROGRAM.~~

~~(a) The General Manager/Secretary-Treasurer hereby requests authority, in the name of the Greater Cleveland Regional Transit Authority, to participate in State contracts which the Department of Administrative Services, State and Federal Surplus Property Program, has entered into for the purchase of supplies, services, equipment and certain materials pursuant to Ohio R.C. 125.04~~

~~(b) The General Manager/Secretary-Treasurer is hereby authorized to agree, in the name of the Authority, to be bound by all contract terms and conditions as the Department of Administrative Services, Office of State Purchasing, prescribes. Such terms and conditions may include a reasonable fee to cover the administrative costs which the Department incurs as a result of the Authority's participation in the program. Further, the General Manager/Secretary-Treasurer does hereby agree to be bound by all such terms and conditions.~~

~~(e) The General Manager/Secretary-Treasurer is hereby authorized to agree, in the name of the Authority, to directly pay the State for whatever it receives pursuant to the agreement.~~

~~(d) The General Manager/Secretary-Treasurer may designate those employees that he or she deems appropriate to purchase State and Federal surplus property. (Res. 1991-81. Passed 4-16-91.)~~

~~410.05~~410.04 OHIO DEPARTMENT OF TRANSPORTATION COOPERATIVE PURCHASING PROGRAM.

(a) The CEO, General Manager/Secretary-Treasurer is hereby authorized, in the name of Greater Cleveland Regional Transit Authority, to participate in Ohio Department of Transportation contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio R.C. 5513.01(B).

(b) The CEO, General Manager/Secretary-Treasurer is hereby authorized to and shall agree, in the name of the Authority, to be bound by all terms and conditions as the Director of Transportation prescribes, to the extent consistent with the Authority's

procurement policies and procedures.

(c) The CEO, General Manager/Secretary-Treasurer is hereby authorized to and shall agree, ~~in the name of the Authority,~~ to directly pay the vendor, under each such contract of the Ohio Department of Transportation in which the Authority participates, for items it receives pursuant to the contract.

~~(d) The Authority agrees to hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising in connection with participation in a contract pursuant to Ohio R.C. 5513.01(B).~~
(Res. 1993-079. Passed 4-20-93. Res. 2017-XXX. Passed XX-XX-17.)



TITLE/DESCRIPTION: REPEALING CHAPTER 410 OF THE CODIFIED RULES AND REGULATIONS OF THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY AND ENACTING A NEW PROCUREMENT CHAPTER 410.	Resolution No.: 2017-102
	Date: November 16, 2017
	Initiator: Legal
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: This resolution will repeal Chapter 410 and also enact a new procurement chapter of the Codified Rules and Regulations ("Code") of the Greater Cleveland Regional Transit Authority.
- 2.0 DESCRIPTION/JUSTIFICATION: The Policies and Procedures of the Board of Trustees were codified in 1989, pursuant to Resolution 1989-176. The code book has been updated periodically. It is now time for a comprehensive review and update so that the updated Code will conform to the current structure and operations of the Authority.

The procurement policy previously approved by the Board of Trustees was not included in the Code. A new procurement chapter is being enacted to incorporate the procurement policy into the Code and to update, organize and clarify the language.
- 3.0 PROCUREMENT BACKGROUND: Does not apply.
- 4.0 AFFIRMATIVE ACTION/DBE BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: Adoption of the resolution will result in a clear, accurate and current policy.
- 6.0 ECONOMIC IMPACT: Does not apply.
- 7.0 ALTERNATIVES: Not adopting this resolution. Not adopting this resolution would result in the Code remaining out of date.
- 8.0 RECOMMENDATION: It is recommended that this resolution be adopted.
- 9.0 ATTACHMENT: A. Redline copy of the procurement policy.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



CEO, General Manager/Secretary-Treasurer

ATTACHMENT A

1.0 PURPOSE

Policy: ~~This~~ These Procurement ~~Policy identifies~~ Policies identify the regulations and processes, ~~which that~~ govern all Authority personnel involved in the procurement and contract administration process. The ~~Policy~~ Policies covers the entire range of procurement activities and ~~its~~ their requirements are binding on all Authority personnel.

~~2.0~~ EFFECTIVE DATE

Policy: ~~This policy shall be effective on the effective date of changes to Ohio Revised Code Section 306.43 contained in Ohio House Bill 562 (September 23, 2008) and shall remain in full force and effect until rescinded, replaced or modified by the Board of Trustees. The effective date of any modification of this Policy shall be identified on the pages modified.~~

3.02.0 SCOPE OF POLICY

Policy: Except as otherwise specified herein, all purchases and dispositions of equipment, materials, goods and services to or by the Authority involving either an expenditure of public funds or revenue from Authority assets whether by sale, lease, rental or otherwise shall be governed by ~~this Policy~~ these Policies. The general requirements herein shall apply except as altered or excluded for specific types of procurements. ~~To the maximum extent possible, the Authority shall purchase and dispose of equipment, materials, goods and services through competitive processes.~~

4.03.0 EXCLUSIONS

Policy: The following activities are excluded from this Policy:

- Acquisition or disposition of any rights in real property, ~~but not~~ excepting contracts with professional consultants or brokers in connection therewith;
- The sale of debt securities or sale/leaseback or lease/leaseback transactions, ~~but not the procurement of~~ except for contracts with professional consultants or brokers ~~for any of them~~ in connection therewith;
- Payments for items mandated by law, regulation, or agreements other than procurement contracts entered into by the Authority;
- ~~Routine~~ Training, professional development and other routine administrative expenses ~~such as postage~~ which are specifically identified in the Authority's budget;
- Purchases or reimbursement to employees for travel or similar expenses incurred on behalf of the Authority under the Authority's other policies and procedures;
- The designation of eligible depositories for the Authority's active, interim and inactive funds pursuant to Chapter 135 of the Ohio Revised Code; and

- Action regarding employee-related matters under the Personnel Policy Code, but not the procurement of excepting contracts with professional consultants pertaining thereto in connection therewith.

5.04.0 GOVERNANCE

Policy: As a political subdivision of the State of Ohio, the Authority is governed by the applicable portions of the Ohio Revised Code. The primary governance for procurement actions is Sec. Ohio R.C. 306.43. As a third-party grantee of the ~~Federal~~ federal government, the Authority is also governed by applicable federal laws and regulations. The primary federal governance for procurement activities is FTA Circular 4220.1, as it may be amended or replaced. ~~The documents listed above are those, which directly regulate aspects of the procurement function. Additional documents, including the FTA Best Practices Procurement Manual, Federal Acquisition Regulations and other sections of the Ohio Revised Code, while they may or may not be binding on the Authority, shall be used for guidance to the extent matters covered herein are not addressed by governing laws or regulations.~~

6.05.0 STRUCTURE OF PROCUREMENT DEPARTMENT

Policy: The Procurement Department shall have a sufficient degree of autonomy within the ~~organization~~ Authority to function effectively as part of a check and balance system governing Authority acquisitions and dispositions.

7.06.0 PROCUREMENT ETHICS

Policy: ~~Except as expressly permitted under other Authority policies, no Authority officer or employee shall accept any gift of value from a vendor or potential vendor, except for items which are offered on a general basis to potential customers of a vendor or group of vendors, or as sponsorship of an activity not specific to this Authority. No Authority employee shall participate in a procurement action involving a vendor or potential vendor, in which the employee or member of the employee's immediate family has an economic interest, except with the approval of the Director of Procurement, upon disclosure of all information concerning the potential conflict.~~

No Authority employee, officer, agent or board member may participate in the selection, award, or administration of a contract supported with FTA assistance if that individual, his or her immediate family member, partner or an organization that employs or is about to employ any of the foregoing has a financial or other interest in a firm being considered or selected. "Immediate family" shall have the same meaning as defined in the Authority's Code of Ethics.

No Authority employee, officer, agent, or board member shall accept anything of value from a party who is doing or seeking to do business with the Authority that could have a substantial and improper influence upon that employee, officer, agent or board member, in accordance with the Ohio Revised Code and the Authority's Code of Ethics.

8-07.0 ORGANIZATIONAL CONFLICTS OF INTEREST

Policy: Procurements hereunder shall be conducted with full and open competition to the greatest extent possible. No undue geographical, economic or technical restrictions shall be imposed on vendors. A vendor deemed to possess an unfair competitive advantage or to possess a bias preventing it from rendering impartial advice or assistance to impartially performing the work or services on behalf of the Authority shall be precluded from award of contracts within the scope of the advantage or bias.

9-08.0 DELEGATIONS OF AUTHORITY

Policy: ~~Responsibility for procurement actions lies with the Board of Trustees. The Board hereby delegates to the CEO, General Manager/Secretary-Treasurer of the Authority or, in his or her absence, the Acting General Manager, the following responsibilities:~~

- ~~• Authorize and approve all purchases, sales, dispositions, and other procurement actions not exceeding \$100,000, which, by federal or state requirements, do not require formal solicitation or approval by the Board of Trustees;~~
- ~~• Approve all funding encumbrances and authorizations to proceed with solicitation for acquisitions and dispositions of goods, equipment, and services for or by the Authority;~~
- ~~• Upon authorization by the Board, execute contracts exceeding \$100,000.00 in value;~~
- ~~• Terminate any contract if deemed to be in the best interest of the Authority;~~
- ~~• Advertise for all formal procurements, which are those exceeding the General Manager/Secretary Treasurer's \$100,000 authority.~~
- ~~• Cancel procurements.~~
- ~~• Enter into agreements for legal services, pursuant to Board Resolution No. 2004-043 as amended.~~
- ~~• Approve all funding encumbrances and authorizations to proceed with solicitation for acquisitions and dispositions of goods, equipment, and services for or by the Authority.~~
- ~~• Execute all contract documents.~~
- ~~• Settle all claims and disputes.~~
- ~~• Approve all change orders on contracts not exceeding \$100,000.00, in a net amount that does not cause the total amount of any such contract to exceed \$100,000.00, and approve change orders on other contracts in a net amount not to exceed the following limits: \$100,000.00 for contracts up to \$1,000,000.00; the lesser of 10% or \$250,000.00 for all contracts between \$1,000,000.00 and \$5,000,000.00; in an amount not to exceed and \$500,000.00 for all contracts over \$5,000,000.00. Trustees The Board may, by resolution, vary these limits for particular contracts or projects; The General Manager/Secretary Treasurer shall report, as required by the Board, all changes made under this delegated authority. and~~
- ~~• Approve all change orders not involving an additional expenditure of Authority funds, except for cardinal changes to the scope of the~~

contract. Re-delegate any of the powers granted herein, provided, however, that the CEO, General Manager/Secretary-Treasurer shall retain responsibility for all actions taken as a result of re-delegation of authority hereunder.

The General Manager/Secretary-Treasurer is also empowered to:

- ~~Determine the lowest responsive and responsible bidder.~~
- ~~Determine when acceptance of an offer resulting from a negotiated proposal is in the best interest of the Authority.~~
- ~~Reject all bids or proposals when it is determined to be in the best interest of the Authority.~~
- ~~Determine whether only one source of supply is readily available for the purchase of goods and services.~~
- ~~Terminate any contract if deemed to be in the best interest of the Authority.~~

The Board hereby delegates to the CEO, General Manager/Secretary-Treasurer and the Authority's Director of Procurement or, in his or her absence, the Acting Director of Procurement, the following responsibilities:

- Authorize and approve all purchases, sales, dispositions and other procurement actions which by federal or state requirements or these Procurement Policies, do not require formal solicitation or approval by the Board of Trustees and which do not exceed \$100,000.;
- Execute contracts not exceeding \$100,000.00 in value or otherwise requiring Board approval;
- Advertise for all formal procurements as required by law or regulation or when otherwise deemed to be in the best interest of the Authority; which are those exceeding \$100,000.
- Cancel procurements.;
- Determine the lowest responsive and responsible bidder;
- Determine when acceptance of an offer resulting from a negotiated proposal is in the best interest of the Authority;
- Reject any or all bids or proposals when it is determined to be in the best interest of the Authority.;
- Determine whether only one source of supply is readily available for the purchase of goods and services; an exception to competition is applicable, in accordance with Ohio R.C. 306.43.;
- Review, respond to, negotiate and settle protests, claims and disputes related to procurement actions or contracts; and
- Re-delegate any of the powers granted herein, provided, however, that the CEO, General Manager/Secretary-Treasurer shall retain responsibility for all actions taken as a result of re-delegation of authority hereunder.

43.09.0 PROCUREMENT PLANNING, SPECIFICATIONS AND SCOPES OF SERVICES

Policy: The initiating department shall be responsible for identifying and justifying its procurement needs, justifying them, and defining the

~~needs to the point that a specification or scope of services can be prepared, as well as preparing specifications and/or a scope of services for the Procurement Department. The initiating department is responsible for preparing an estimate of the cost of the item or service, in the same form that an offeror would develop or propose a price. The initiating department and Procurement Department are jointly responsible for developing a schedule to meet the initiator's needs and identifying potential suppliers. The schedule should be part of a comprehensive plan for annual procurement actions, to ensure that the required resources are available as required.~~ 16.0 Specifications and Scopes of Services

Policy: ~~Unless otherwise determined by the Director of Procurement, the Procurement Department shall prepare specifications and scopes of services based upon information provided by the initiating department. Specifications or scopes prepared by others shall be reviewed by the Procurement Department for conformity with applicable procurement standards. The document Specifications should identify the Authority's minimum needs and avoid restrictive provisions such as identification of name brands to the greatest extent possible. All specifications Specifications must be approved by the head of the initiating department, the Safety Department, if when applicable, the Director of Procurement, and any others designated by the Director of Procurement, prior to issuance. The initiating department is also responsible for preparing an estimate of the cost of the item or service.~~

44.010.0 DISADVANTAGED BUSINESS ENTERPRISES

Policy: ~~In making procurements hereunder, the~~ The Authority shall serve work to ensure the participation of Disadvantaged Business Enterprises (DBEs) in its procurements, as well as contractor compliance in accordance with all applicable laws and regulations. The Authority shall use its best efforts to encourage fair and representative participation of DBEs on procurements, either as prime contractors or as subcontractors. Moreover, the Authority shall determine the opportunity for DBE participation on all procurements in the amount of \$25,000 or more, and, where qualified DBEs are identified, solicitations for such procurements shall include at least one DBE among the contractors solicited.

45.011.0 DEBARMENT

Policy: ~~The Authority shall not award contracts to firms that are debarred by the state or Federal-Federal governments. Debarment by other government entities may be considered in determining a vendor's-contractor's responsibility, but shall not necessarily preclude award to the debarred vendor.~~

10.012.0 CHANGE ORDERS

Policy: ~~Change Orders~~orders are contract amendments altering the scope, price or schedule of the original contract. Approval of change orders shall be in accordance with the ~~provisions of Sec. 9.0 of this Policy~~delegations of authority prescribed in this Chapter. The Board of Trustees may, for any ~~specific contract or project, delegate its change order authority to specific officers or employees, at specified dollar levels~~. No work under a change order may be authorized prior to such approval, except upon the written direction of the CEO, General Manager/Secretary-Treasurer. Change orders determined to be cardinal changes to the contract are prohibited. Cardinal changes are changes which alter the essential nature, quantity or scope beyond the reasonably reasonable contemplation of the parties at the time of contract execution, or which result in a final product substantially different than that originally contracted for for which the Authority originally contracted. ~~Cardinal changes are considered new procurements, and are subject to the appropriate provisions of this policy regarding non-competitive procurements.~~

11.013.0 PROTESTS, CLAIMS AND DISPUTES

Policy: The Authority shall review, process and adjudicate procurement protests, claims, and disputes in the manner prescribed by applicable federal and/or state regulations. The Authority's procedure for handling protests, claims, and disputes shall be contained in the Authority's Procurement Manual and made available to vendors upon request. ~~Claims related to procurement actions or contracts shall be submitted in writing to the Director of Procurement. Claims in excess of \$25,000 shall include a certification by the owner or an officer of the vendor that the claim is, to the best of his or her knowledge or belief, accurate as to both the basis and the amount of the claim. As grantee of Federal Funds, GCRTA must notify FTA of any current or prospective litigation or major disputed claim in excess of \$100,000 relating to any third party contract.~~

~~The Authority shall establish a procedure by which a vendor may appeal a denial of a claim, in whole or in part. Settlement of any claim shall be by the approval of the General Manager/Secretary-Treasurer, based upon a recommendation by the Director of Procurement that the settlement is fair and reasonable and is in the best interest of the Authority.~~

~~Disputes other than formal claims arising during the course of project performance shall, to the extent feasible, be resolved by the Contract Administrator and the Project Manager. Disputes, which are not so resolved, may be brought by the aggrieved party to a court of law, unless an alternative form of dispute resolution is agreed upon by the parties. The Director of Procurement shall promptly notify the General Counsel-Deputy General Manager of Legal Affairs of any such dispute.~~

12.0 PROTESTS

Policy: ~~Protests of procurement actions may be filed before bids or proposals are received, after announcement of a proposed award, and after action by the Board of Trustees. Protests before bids or proposals are received may address the adequacy or fairness of the solicitation documents. If an award of a federally-funded project will be made during the pendency of a protest, the Director of Procurement must notify the FTA of the protest prior to the award. Protests after announcement of a proposed award may address the basis for selection or rejection of a bidder or proposer. Protests following action by the Board of Trustees may address only the procedure by which the Board accepted the bid or proposal. The protestor must have a substantial economic interest in the procurement. Protests shall be in writing, and in sufficient detail to permit an evaluation and response. Protests shall be decided by the Director of Procurement whose decision shall be final.~~

13.0 PROCUREMENT PLANNING

Policy: ~~The initiating department shall be responsible for identifying its needs, justifying them, and defining the needs to the point that a specification or scope of services can be prepared. The initiating department is responsible for preparing an estimate of the cost of the item or service, in the same form that an offeror would develop or propose a price. The initiating department and Procurement Department are jointly responsible for developing a schedule to meet the initiator's needs and identifying potential suppliers. The schedule should be part of a comprehensive plan for annual procurement actions, to ensure that the required resources are available as required.~~

14.0 DISADVANTAGED BUSINESS ENTERPRISES

Policy: ~~In making procurements hereunder, the Authority shall serve to ensure the participation of Disadvantaged Business Enterprises (DBE), as well as contractor compliance in accordance with all applicable laws and regulations. The Authority shall use its best efforts to encourage fair and representative participation of DBEs on procurements, either as prime contractors or as subcontractors. Moreover, the Authority shall determine the opportunity for DBE participation on all procurements in the amount of \$25,000 or more, and where qualified DBEs are identified, solicitations for such procurements shall include at least one DBE among the contractors solicited.~~

15.0 DEBARMENT

Policy: ~~The Authority shall not award contracts to firms that are debarred by the Federal government. Debarment by other government entities may be considered in determining a vendor's responsibility, but shall not necessarily preclude award to the debarred vendor.~~

~~16.0 SPECIFICATIONS AND SCOPES OF SERVICES~~

~~Policy: Unless otherwise determined by the Director of Procurement, the Procurement Department shall prepare specifications and scopes of services based upon information provided by the initiating department. Specifications or scopes prepared by others shall be reviewed by the Procurement Department for conformity with applicable procurement standards. The document should identify the Authority's minimum needs and avoid restrictive provisions such as identification of name brands to the greatest extent possible. All specifications must be approved by the head of the initiating department, the Safety Department, if applicable, the Director of Procurement, and any others designated by the Director of Procurement, prior to issuance.~~

~~17.014.0 PROCUREMENT TYPES FOR FORMAL CONTRACTS~~

~~Policy: For formal contracts (those for which the Board of Trustees has not delegated its purchasing authority and any others so designated by the CEO, General Manager/Secretary-Treasurer of the Authority or, in his or her absence, the Acting General Manager or the Director of Procurement or, in his or her absence, the Acting Director of Procurement), the Authority shall procure and dispose of personal property as prescribed by applicable state and federal laws and regulations. may utilize sealed bids, two-step procurements, and negotiated procurements where at least two qualified sources are identified as reasonably available. The Authority shall use negotiated procurements where a non-competitive procurement is appropriate. To the extent authorized by law, the Authority may purchase services or supplies via reverse auction utilizing the Internet. The Authority may use any type of contract deemed appropriate by the Director of Procurement that is consistent with applicable laws and regulations.~~

~~22.015.0 SMALL PURCHASES~~

~~Policy: Purchases reasonably estimated not to exceed the small purchase limits of \$100,000, 00 established pursuant to Sec. 9.0 of this Policy may be procured informally, provided that a record is maintained consistent with applicable laws and regulations. Price or rate quotations shall be obtained from an adequate number of qualified sources to permit a reasonable comparison consistent with the nature of competitive negotiation within the given circumstances. This shall generally mean at least three (3) offers/bids on purchases up to \$100,000. Purchases above \$2,500 and up to \$100,000 require a written quotation.~~

~~48.016.0 CONTRACT PRICING~~

~~Policy: The Authority must may utilize firm fixed price or fixed unit price not-to-exceed contracts for sealed bid procurements and may use them for as well as negotiated procurements. Such contracts may allow price escalation based on actual costs or a generally recognized index,~~

provided that the escalator has a defined upper limit. The Authority may also use a cost plus fixed fee contract, or any other type of contract permitted by applicable laws or regulations; however, for negotiated procurements, it may not use a cost plus percentage fee type of contract. The Authority may use indefinite quantity or indefinite delivery contracts where appropriate, but may not use an indefinite quantity and indefinite delivery contract. The Authority may use a time and materials type of contract only if no other form is suitable and if the contract contains a not-to-exceed ceiling. The Authority may utilize progress payments to the extent consistent with law and regulation, provided that it obtains or secures value consistent with the amount paid. The Authority shall not make advance payments unless specifically authorized by the Director of Procurement or the CEO, General Manager/Secretary-Treasurer.

19.017.0 SEALED BID PROCUREMENTS

Policy: ~~Unless the Director of Procurement determines that the appropriate conditions do not exist, all procurements above the small purchase limit of \$100,000 shall be by sealed bid. The Director of Procurement may direct that sealed bids be invited.~~ If less than two responsive bids are received for a sealed bid solicitation, the Director of Procurement, in this single bid situation, may either (1) negotiate price with the responsive bidder or (2) cancel the solicitation.

20.018.0 COMPETITIVE NEGOTIATED PROCUREMENTS

Policy: ~~When the conditions for a sealed bid procurement do not exist, the~~The Director of Procurement may direct that competitive negotiated proposals be solicited. Competitive negotiated procurements must be conducted in a manner that preserves the integrity of the procurement process. To the extent permitted by law, regulation or court decision, the evaluation of proposals shall be conducted in a confidential manner, and all confidential or proprietary information shall be held confidential.

21.019.0 TWO-STEP PROCUREMENTS

Policy: ~~When the conditions for a competitive sealed bid do not exist, the~~The Director of Procurement may direct that a two-step procurement process be utilized. This process shall consist of a negotiated technical proposal followed by a sealed bid from those firms whose technical proposals are acceptable. ~~To the extent permitted by law, regulation or court decision, the evaluation of proposals shall be conducted in a confidential manner, and all confidential or proprietary information shall be held confidential.~~

22.0 SMALL PURCHASES

~~**Policy:** Purchases reasonably estimated not to exceed the small purchase limits of \$100,000 established pursuant to Sec. 9.0 of this Policy may be procured informally, provided that a record is maintained consistent with applicable laws and regulations. Price or rate quotations shall be obtained from an adequate number of qualified sources to permit a reasonable comparison consistent with the nature of competitive negotiation within the given circumstances. This shall generally mean~~

at least three (3) offers/bids on purchases up to \$100,000. Purchases above \$2,500 and up to \$100,000 require a written quotation.

20.0 NON-COMPETITIVE PROCUREMENTS

Policy: The Director of Procurement may prescribe that a non-competitive procurement is justified based on applicable laws and regulations. If any such procurement exceeds the small purchase authority prescribed herein, Board approval is required. Contracts entered into on the basis of a non-competitive procurement must be in the best interest of the Authority, and the price shall be fair and reasonable, as determined by the Director of Procurement.

23.0 SOLE SOURCE PROCUREMENTS

~~Policy: A sole source procurement may be used when, after reasonable inquiry, the Director of Procurement determines that only one source for the item or service is reasonably available. A sole source procurement shall be conducted as a non-competitive negotiated procurement, in accordance with applicable laws, regulations and this Policy.~~

24.0 EMERGENCY PROCUREMENTS

~~Policy: Upon authorization by the General Manager/Secretary Treasurer, the Director of Procurement, may direct that a non-competitive procurement be conducted to the minimum extent needed to meet an emergency situation. The General Manager/Secretary Treasurer shall contact the President of the Board of Trustees if the estimated cost to abate the emergency is anticipated to exceed the General Manager/Secretary~~

25.0 INTERGOVERNMENTAL AGREEMENTS

~~Policy: The Authority may, to the extent permitted by law or regulation, purchase or dispose of goods or services by agreement with another governmental agency or through an intergovernmental purchasing group. The Authority may exercise options under contracts entered into by other governmental entities, or offer such options to another governmental agency or intergovernmental purchasing group provided that: (1) the granting agency's contract allows for the assignment of the option and (2) the granting agency's procurement process meets all material and competitive requirements required by the Authority's funding source.~~

26.0 NON-PROFIT AGENCIES

~~Policy: The Authority may, to the extent permitted by law or regulation, purchase or dispose of goods or services to recognized non-profit organizations. In the case of a disposition of property (excluding real property), assurances shall be obtained that the property shall not be resold or otherwise used for profit.~~

34.021.0 DESIGN SERVICES

Policy: Architectural and engineering services, value engineering services, and incidental services related thereto, as defined in 40 U.S.C. Sec. 541 et seq. (Brooks Act), shall be conducted as negotiated procurements, except that selection shall be made of the most technically qualified firm

without consideration of price. Price shall be negotiated with the selected firm. If agreement cannot be reached with the most qualified firm, the process is repeated with the second most qualified firm, continuing until agreement is reached, or the pool of technically acceptable firms is exhausted, at which point the procurement must be cancelled.

32.022.0 DESIGN/BUILD SERVICES

Policy: To the extent permitted by law and regulation, the Authority may solicit the services of a single firm or entity to both design and build a construction project ~~and construct it~~. Such solicitations shall be ~~conducted as permitted and~~ in the manner prescribed by the Ohio Revised Code, ~~unless~~ if such procedure violates the provisions of federal law or regulation, design build services may not be used in projects involving federal funds.

34.023.0 CONSTRUCTION SERVICES

Policy: Solicitations for construction, improvement or repair of facilities shall be conducted as ~~Sealed Bid Procurements~~ sealed bid procurements. To the extent required by law or regulation, solicitations shall require that the award shall be made to the lowest responsive bid from a responsible bidder, ~~for either (1) the sum of bids for various construction trades, including plumbing and gas fittings; steam and hot water heating, ventilation apparatus and steam power; and electrical equipment, and general work not falling within such trades; or (2) to a single bid for all work within the scope of the solicitation. The responsibility requirement for such solicitation shall include possession of all individual and corporate licenses required under applicable laws, codes and regulations. The successful bidder or bidders~~ contractor must conform with ~~to the~~ prevailing wage requirements defined in Ohio Revised Code ~~R.C.~~ Chapter 4115, if no federal funds are involved, or in the Davis-Bacon Act (40 U.S.C. 276a et seq.) and the Copeland Act (40 U.S.C. 276c et seq.), if federal funds are involved. ~~No bid shall be opened unless time frames for addenda to specifications meet the requirements of the Ohio Revised Code. No award shall be made unless it is within the range of the published engineer's estimate as authorized by the Ohio Revised Code. Awards to other than the low bidder, bonding requirements, remedies for mistakes in bids and conditions and penalties for bid withdrawal shall be in compliance with the Ohio Revised Code. In accordance with the Ohio Revised Code, the surety on the contractor's bond shall be notified in writing of any award.~~

28.024.0 INCENTIVE PAYMENTS AND LIQUIDATED DAMAGES

Policy: The Authority may, under appropriate circumstances, utilize incentives to encourage extraordinary vendor performance, or, alternately, provide for liquidated damages ~~calculated to protect the Authority from losses due to vendor non-performance. It may not impose financial penalties that are punitive in nature. Liquidated damages must be calculated and documented prior to the issuance of the solicitation on the basis of the anticipated actual loss to the Authority resulting from vendor non-performance.~~

25.0 BID GUARANTY

Policy: A bid guaranty shall be required for all contracts for construction, alteration, or repair of any public building or other public improvement in the manner described by the Ohio Revised Code. The Authority may require a bid, performance and/or payment guaranty when it is determined, by the Director of Procurement, to be in the Authority's best interest. The bid guaranty shall be required as directed by the Director of Procurement, upon the advice of the Risk Management Department. The Director of Procurement may authorize the reduction of any bond supplied for the rendering of services or the supplying of materials to the extent permitted by the Ohio Revised Code.

35.026.0 ROLLING STOCK

Policy: The Authority may procure rolling stock by either negotiated procurement or sealed bid. Rolling stock shall be defined to include transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services. Solicitations for rolling stock shall require compliance with all applicable standards regarding dimensions, weight, accessibility and safety. Unless specifically authorized by the CEO, General Manager/Secretary-Treasurer, the Authority shall not procure rolling stock, ~~that~~ which has not been tested in accordance with the Code of Federal Regulations, if ~~as~~ applicable. The Authority shall conduct ~~the pre-award and post-delivery audits as required by the Code of Federal Regulations. The Authority shall not, except with the prior approval of the General Manager/Secretary-Treasurer, dispose of rolling stock before the end of its useful life as defined by the Federal Transit Administration.~~

27.0 ELECTRONIC PROCUREMENTS AND PURCHASING CARDS

Policy: The Authority may utilize electronic means, to the extent consistent with legal and regulatory requirements, to conduct any procurement defined herein ~~in whole or in part. Documents requiring an original signature or notarization shall not be in electronic form unless the use of electronic signature is authorized by law and approved by the Director of Procurement.~~ Employees and officers of the Authority designated by the Board of Trustees may use purchasing (credit) cards, ~~as authorized by the procedures of the General Manager/Secretary-Treasurer, to acquire items under contracts previously awarded by the Authority in accordance with this Policy. Additionally, the Board of Trustees may authorize the use of purchasing cards for the acquisition of readily available retail items from sources not under such contracts, as long as such purchases do not exceed the Small Purchase limit.~~

28.0 INCENTIVE PAYMENTS AND LIQUIDATED DAMAGES

Policy: ~~The Authority may, under appropriate circumstances, utilize incentives to encourage extraordinary vendor performance, or provide for liquidated damages calculated to protect the Authority from losses due to vendor non-performance. It may not impose financial penalties that are punitive in~~

~~nature. Liquidated damages must be calculated and documented prior to the issuance of the solicitation on the basis of the anticipated actual loss to the Authority resulting from vendor non-performance.~~

~~29.0 CONTRACT CONTENTS~~

~~Policy: Contracts for the acquisition of goods and services shall include, at a minimum: the specification or agreed upon scope of services; the price and term of the contract; payment terms; contractual terms including but not limited to appropriate warranties and indemnities; and all clauses and certifications required by law and regulation.~~

~~30.0 CONTRACT EXECUTION~~

~~Policy: When authorized by the Board of Trustees, the General Manager/ Secretary Treasurer will sign contracts over \$100,000.~~

~~Contracts not exceeding \$100,000 may be signed by the General Manager/Secretary Treasurer or the Director of Procurement without specific Board of Trustee authorization.~~

~~The Legal Department shall review contracts above \$25,000 for legal form and correctness before they are executed by the Authority.~~

~~31.0 DESIGN SERVICES~~

~~Policy: Architectural and engineering services, value engineering services, and incidental services related thereto, as defined in 40 U.S.C. Sec. 541 et seq. (Brooks Act), shall be conducted as negotiated procurements, except that selection shall be made of the most technically qualified firm without consideration of price. Price shall be negotiated with the selected firm. If agreement cannot be reached with the most qualified firm, the process is repeated with the second most qualified firm, continuing until agreement is reached, or the pool of technically acceptable firms is exhausted, at which point the procurement must be cancelled.~~

~~32.0 DESIGN/BUILD SERVICES~~

~~Policy: To the extent permitted by law and regulation, the Authority may solicit the services of a single firm or entity to both design a construction project and construct it. Such solicitations shall be as permitted and in the manner prescribed by the Ohio Revised Code, unless such procedure violates the provisions of federal law or regulation, in projects involving federal funds.~~

~~33.0 CONSTRUCTION MANAGEMENT SERVICES~~

~~Policy: The Authority may, as it deems appropriate, employ a firm to perform construction management services, as defined in section 9.33 of the Ohio Revised Code. Solicitation of such services shall be in the same manner as is used for architect/engineering services. Public advertisement of such solicitation shall be made not less than 30 days prior to the receipt of proposals. Unless specifically waived by the Director of Procurement, the Construction Manager shall be required to provide the financial assurances required by Sec. 9.333 of the Ohio Revised Code.~~

34.0 CONSTRUCTION SERVICES

Policy: ~~Solicitations for construction, improvement or repair of facilities shall be conducted as Sealed Bid Procurements. To the extent required by law or regulation, solicitations shall require that the award shall be made to the lowest responsive bid from a responsible bidder for either (1) the sum of bids for various construction trades, including plumbing and gas fittings; steam and hot water heating, ventilation apparatus and stream power; and electrical equipment, and general work not falling within such trades; or (2) to a single bid for all work within the scope of the solicitation. The responsibility requirement for such solicitation shall include possession of all individual and corporate licenses required under applicable laws, codes and regulations. The successful bidder or bidders must conform with the prevailing wage requirements defined in Ohio Revised Code Chapter 4115, if no federal funds are involved, or in the Davis-Bacon Act (40 U.S.C. 276a et seq.) and the Copeland Act (40 U.S.C. 276c et seq.), if federal funds are involved. No bid shall be opened unless time frames for addenda to specifications meet the requirements of the Ohio Revised Code. No award shall be made unless it is within the range of the published engineer's estimate as authorized by the Ohio Revised Code. Awards to other than the low bidder, bonding requirements, remedies for mistakes in bids and conditions and penalties for bid withdrawal shall be in compliance with the Ohio Revised Code. In accordance with the Ohio Revised Code, the surety on the contractor's bond shall be notified in writing of any award.~~

35.0 ROLLING STOCK

Policy: ~~The Authority may procure rolling stock by either negotiated procurement or sealed bid. Rolling stock shall be defined to include transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services. Solicitations for rolling stock shall require compliance with all applicable standards regarding dimensions, weight, accessibility and safety. Unless specifically authorized by the General Manager/Secretary Treasurer, the Authority shall not procure rolling stock, which has not been tested in accordance with Code of Federal Regulations, if applicable. The Authority shall conduct the pre-award and post-delivery audits as required by the Code of Federal Regulations. The Authority shall not, except with the prior approval of the General Manager/Secretary Treasurer, dispose of rolling stock before the end of its useful life as defined by the Federal Transit Administration.~~

36.0 PILOT PROGRAMS

Policy: ~~The Authority may use pilot programs of limited time and scope to test new products or systems. Acquisition of products for such tests may be on a sole source basis. Such programs shall last no more than six (6) months, unless the General Manager/Secretary Treasurer determines that a longer duration is required, due to the nature of the item being tested. Before the end of the test period, a report shall be prepared determining the utility of and need for the item tested. Should the item be~~

determined to be both useful and needed, it shall be procured through the appropriate procurement process.

37.028.0 DISPOSITION OF PROPERTY

Policy: The Authority may sell personal property, including capital equipment and surplus or obsolete parts and supplies, by sealed bid, or public auction or online auction. The Authority may also otherwise dispose of property in accordance with applicable laws and regulations by donation to non-profit organizations. Trade-in of used equipment towards the purchase of new equipment shall also be permitted. Sale of capital assets whose fair market value is estimated to exceed the small purchase limit shall be authorized by the Board of Trustees. Sale of federally funded capital assets that have not exceeded their useful life as established by the Federal Transit Administration shall be authorized by the Board of Trustees. The Authority may also transfer items to other transit entities.

38.0 BROKER SERVICES

~~Policy:~~ The Authority may employ brokers to provide services where the use of such brokers is standard industry practice. Broker services shall be procured by competitive negotiated procurement. Payments to brokers shall not be on a cost plus percentage of cost basis.

39.0 ARTS IN TRANSIT

~~Policy:~~ The Authority shall procure public art for major construction projects through a modified competitive negotiated procurement process, provided that the guidelines set forth in FTA Circular 9400.1 A are followed. The policy set forth for negotiated procurements shall be followed to the extent possible within these guidelines. If the Authority chooses, it may procure a consultant to assist in the procurement of public art utilizing standard negotiated procurement policy and procedures. Any resulting contract shall be subject to compliance with federal guidelines.

40.0 BONDS

~~Policy:~~ Except to the extent mandated by law, the Authority shall utilize performance and payment bonds only where the risk to the Authority of non-performance by a contractor exceeds the anticipated cost of the bond. In determining the applicability of a bonding requirement, consideration should be given to the potential impact on small and disadvantaged businesses.

A bid bond may be required on all competitive bid procurements and shall be required on all formal competitive bid requirements. Additional specialized types of bonds may be required for certain procurements. The use of such bonds shall be as directed by the Director of Procurement, upon the advice of the Risk Management Department. The Director of Procurement may authorize the reduction of any bond supplied for the rendering of services or the supplying of materials to the extent permitted by Ohio Revised Code section 9.313.