

City of Petersburg Procurement Office

Purchasing Manual & Purchasing Procedures

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Table of Contents

I-I FORWARD – PURPOSE	3
I-II GENERAL FUNCTIONS AND RESPONSIBILITIES OF THE PURCHASING AGENT	3
I-III PURCHASING CYCLE	7
I-IV PROCUREMENT PLANNING	8
SECTION II – PURCHASING METHODS	10
II-I INFORMAL SOLICITATION POLICY	10
II-II COMPETITIVE SEALED BIDDING	12
II-III COMPETITIVE NEGOTIATION	14
II-IV DESIGN-BUILD AND CONSTRUCTION MANAGEMENT CONTRACTS	20
II-V SOLE SOURCE PURCHASES	22
II-VI EMERGENCY PURCHASES	24
SECTION III – PURCHASING SUPPORT INFORMATION	26
III-I ETHICS IN PUBLIC CONTRACTING	26
III-II EXEMPTIONS	30
III-III SPECIFICATIONS	33
III-IV DEFINITIONS	35
SECTION IV – UNIQUE PURCHASE SITUATIONS	39
IV-I BLANKET PURCHASE ORDERS	39
IV-II CHANGE ORDERS	411
IV-III DELEGATED PURCHASE AUTHORITY	43
SECTION V – PURCHASING ADMINISTRATION	44
V-I CONTRACT ADMINISTRATION	44
V-II PAYMENT AUTHORIZATION OF GOODS AND SERVICES	46
V-III REVIEW/APPROVAL FOR IFB/RFP FILES AND NON-CITY CONTRACT PURCHASES	49
V-IV CONTRACT AWARD AND SIGNING	50
V-V SURPLUS PROPERTY	52
V-VI DEFAULT	54
V-VII DEBARMENT	56
V-VIII CITY CREDIT CARD	60
V-IX RATIFICATION OF UNAUTHORIZED COMMITMENTS	61
V-X APPEALS AND REMEDIES FOR PROTESTS	64
VI PETERSBURG AREA TRANSIT PROCUREMENT	72
SAMPLE FORMS	125

SECTION I – INTRODUCTION/PURPOSE

I-I FORWARD – PURPOSE

CONTENTS

This Procurement Manual, hereafter referred to as a manual, is designated to put into effect the policies and procedures by which departments within the City of Petersburg City government are to follow for the procurement of goods, services, insurance and construction. The manual is designed to comply with the Virginia Public Procurement Act, the City of Petersburg Purchasing Ordinance and policies established by the Petersburg City government. This manual shall be used as a reference resource to maintain the conduct of procurement related activities within the realm of the law and comply with the stated purpose of Petersburg’s municipal code,

To the end that the municipal government of the city obtains high quality goods and services at reasonable cost, that all of its procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to city business and that no offeror is arbitrarily or capriciously excluded, and to increase public confidence in purchasing by the city, it is the intent of this division that competition be sought to the maximum feasible degree, that the administration enjoy broad flexibility in conducting such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the city rather than being drawn to favor a particular vendor, and that the city and vendors freely exchange information concerning what is sought to be procured and what is offered.

The Procurement Office is a service agency. Cooperation and understanding between departments are essential in the effective operation of the purchasing function.

I-II GENERAL FUNCTIONS AND RESPONSIBILITIES OF THE PURCHASING AGENT

I. INTRODUCTION

This policy sets forth the legal authority and responsibility of the Purchasing Agent.

II. POLICY

In accordance with Sections §2.2-43-4377, Code of Virginia, and Article VII, Code of Petersburg as amended §2-371; at the direction of the City Manager, the Purchasing Agent is responsible for the following purchase and supply functions for the City of Petersburg:

1. Purchase, lease and contractually maintain when required, for the use of the City and all of its Departments, Divisions, Boards, Commissions, Offices of Constitutional Officers,

Agencies, hereinafter referred to as using agencies/departments, all supplies, materials, equipment, capital improvements, and contractual services.

2. Make all contract or purchases based on a competitive procurement process whenever practicable.
3. To secure the "Best Value for the Tax Dollar", effect all purchases and contracts on the basis of free and open competitive bids whenever practicable. All awards shall be made to the lowest responsive responsible bidder.
4. Purchase, lease or contract for goods, equipment, services, etc. for city agencies in time of emergency.
5. Operate and maintain a Storeroom/Mailroom for the use of all city agencies.
6. Assist in the development of standard specifications for all supplies, materials or equipment purchased through the Procurement Office with the cooperation of the Agencies.
7. Dispose of all surplus, salvage or obsolete city property by transfer between agencies, trade-in on new goods or equipment, or sale by public auction or competitive bids.
8. Initiate and control all contracts between suppliers and common equipment and city agencies. Act as sole city representative in contracts with suppliers/contractors involving complaints on delivery, failure to conform to specifications, or modifying the terms and original agreement.
9. To establish rules and regulations, not inconsistent with this division, relating to the purchase of goods, services and construction for the City.
10. Competitively bid the city's insurance requirements whenever practicable.
11. Unless otherwise directed by the City Manager in writing, the City Manager and the Purchasing Agent are the only representatives authorized to obligate the city for the expenditures of funds to purchase supplies, services, equipment, construction/alteration and demolition for the city.

III. PROCEDURES

A. Using Agencies/Departments

1. Ensure that procedures exist to authorize the purchase of goods and services on behalf of their operation and employees adhere to the requirements of the City of Petersburg Procurement Policies and Procedures Manual.

2. Ensure that contact is first made with the Procurement Office before any meetings, fact-finding efforts, consultant studies, or discussions are conducted with vendors concerning issues related to potential non-routine purchases exceeding \$10,000.00, whether they are related to existing or new goods or services purchased. All interested vendors shall be given the opportunity to participate in purchasing activities of the City; commitments shall not be made to vendors that may be inappropriate; decision on potential sole sources must not be formulated without canvassing the entire vendor community; and vendors must not be provided information that gives them a competitive advantage over others. Assistance provided by a vendor does not warrant a preference or any obligation for an award of a contract.
3. Requisitions must never be split for the purposes of circumventing competitive requirements. Such an act is a violation of City and State codes.
4. An employee making unauthorized purchases may be held personally liable for the cost of the purchases.
5. Employees involved in any aspect of a purchasing decision are forbidden to solicit or accept money, gifts, meals or entertainment from vendors. Employees shall conduct themselves in a manner that avoids the appearance of impropriety, i.e., lunch with vendors.
6. Advertising or promotional literature stating that the City or their respective employees endorse a vendor's product or services is prohibited.
7. When goods or services are required and available on a citywide contract, it is mandatory to purchase from the contracted vendor in accordance with the contract. If a department/agency believes there is a valid reason not to utilize a citywide contract, they must contact the Procurement Office to explain their reasons the contract does not meet their needs. Upon written approval from the Procurement Office, the requesting department/agency will document why the requirements contract was not utilized and attach it to the requisition.
8. Information received from vendors, to include pricing, will not be divulged to other vendors until a decision to award is made.

B. Procurement Office

1. The Procurement Office serves as a strategic partner by supporting the City as they perform their respective missions by providing effective and efficient purchasing services.

2. The Procurement Office, exclusively, will make all purchase commitments, and perform all functions associated with purchasing except those delegated under Delegated Purchasing Authority Policy.

I-III PURCHASING CYCLE

I. INTRODUCTION

This policy sets forth the activities that comprise the purchasing cycle for procurement transactions that are conducted in the Procurement Office.

II. PROCEDURES

- a. A need is recognized by a using department/agency, which then prepares a purchase requisition. The purchase requisition must be forwarded to the department head or approved designee for approval and signature. Documentation to support the purchase should be attached to the purchase requisition for the department/division head and the Procurement Office.
- b. Procurement staff reviews the requisition for accuracy and completeness. If not accurate and complete, the requisition will be returned to the using department/agency for corrections within 48 hours of receipt.
- c. Procurement staff will verify that the using department/agency has available funding for the procurement transaction. If the Procurement staff disapproves the verification of funds, the purchase requisition will be returned to the using department/agency for corrections.
- d. Purchasing will determine which of the following methods will be appropriate to purchase the goods or services:
 1. Informal Solicitation Procedures
 2. Competitive Sealed Bidding
 3. Competitive Negotiations
 4. Sole Source Purchases
 5. Emergency Purchases
- e. Once all necessary price verifications, quotations, bids, or proposals have been obtained and approved, an award is made and notification is sent to appropriate parties.
- f. Goods or services are received and payment is authorized in accordance with the Receiving/Payment Authorization of Goods and Services Policy.

I-IV PROCUREMENT PLANNING

I. INTRODUCTION

This policy sets forth guidance on procurement planning when ordering goods and services.

II. DEFINITIONS

- A. **Procurement Planning** – a proactive approach in advance of a procurement of all elements that will affect the process to include required research, economic and industry analysis, funding deadlines, anticipated method of procurement, and lead times.
- B. **Lead Time** – the time that it takes from the date the using department/agency submits the requisition to the Procurement Office until the goods or services requested are actually received.
 - 1. **Administrative Lead Time** – period of time from when the requisition is submitted to the Procurement Office until issuance of an award.
 - 2. **Delivery/Time of Performance** – the time after award required by vendors to complete the delivery/performance required by the contract.

III. ADDITIONAL INFORMATION

- a. **Importance of Procurement Planning** – for non-routine procurements, it is important that contact is made **first** with Procurement staff before meetings or substantive discussions are conducted with vendors. Purchasing staff involvement will help to ensure that all interested vendors are given the opportunity to participate in the procurement activities of the City. **Commitments are not made to vendors that may be inappropriate, decisions on potential sole sources are not formulated without canvassing the entire vendor community, and vendors are not provided information that gives them a competitive advantage.**
- b. **Estimates of Administrative Lead Time -**
 - i. Informal Solicitation Purchases (below \$100,000) 10 - 15 days
 - ii. Competitive Sealed Bidding (IFB) 60 - 90 days
 - iii. Competitive Negotiation (RFP) 120-180 days

- iv. Sole Sources – varies depending on research required to confirm sole source status.
- v. Emergency Purchases – 48 hours from the time the Procurement Office is notified of the Emergency.
- vi. Frequency- Considers the purchase amount and the frequency with which item or service is expected to be purchased to determine the most appropriate purchasing method.
- vii. Cooperative Purchase – varies depending on research required to review cooperative contract documents.

SECTION II – PURCHASING METHODS

II-I INFORMAL SOLICITATION POLICY

I. INTRODUCTION

This policy sets forth small purchase procedures for goods and services *§2-391 of the Code of Petersburg*. The purpose of this policy is to provide for the acquisition of needed services, goods and materials for the City of Petersburg in a manner that is most cost-effective for the residents of the City of Petersburg.

An informal solicitation document will be completed for each purchasing action to ensure there is competition and reasonable prices are obtained for the City.

Informal solicitations conducted under this policy shall require the posting of a public notice on the City's website and the Commonwealth of Virginia (eVA) electronic portal.

II. DEFINITIONS

Informal Solicitation—purchase of goods and services, other than professional services and non-transportation related construction where the estimated sum of an individual purchase or the estimated aggregate or sum of all phases is less than \$10,000.

The definition of "cost-effectiveness" as used herein shall not only include consideration of sale or purchase cost but other factors such as quality and availability of service, product, warranty, product durability, experience and other factors reflecting the capabilities of vendors doing business with the City. The specific cost-effective definition will be documented in each small purchase-informal solicitation criteria completed by the authorized City representative.

III. PROCEDURES

- a. **Purchases of \$9,999.99 or less** – delegated to using departments through the use of direct payment invoicing (see Delegated Purchasing Authority) unless the vendor requires a formal purchase order.
- b. **Purchases over \$10,000 but less than \$49,999**– competition must be sought from a minimum of two valid sources. Using departments/agencies must forward the written documentation of quotes along the purchase requisition to the Procurement Office. Refer to Informal Solicitation form which includes price, vendor name, diversity designation, telephone number, payment terms, delivery date, freight/shipping costs, vendor contact and date of quotation. Award shall be made to the lowest responsive bidder.

- c. Purchase of \$50,000 but less than \$199,999.99 - competition must be sought from a minimum of three valid sources. Quotations shall be document as stated in *III.B*. Should it be determined that it would be more appropriate to use an Informal Request for Proposal process, then the Procurement staff may use the process outlined below *in Section IV*.

IV. Informal Request for Proposal – Purchasing staff, with the assistance of the end user, will develop an Informal Request for Proposal that should include the following:

1. Purpose statement
2. Detailed scope of work or specifications.
3. Time frames in which the work is to be completed or goods are to be delivered.
4. Identification of any assistance or information to be furnished by the City.
5. Special information for preparation and submission of the proposal.
6. Suggested criteria that will be used in evaluating the proposal.
7. An award clause may simply state that the City shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror.

Proposals may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and hour stated in the solicitation. In lieu of an evaluation committee, the Procurement staff and the end user shall evaluate and rank the proposals. Upon completion of the evaluation, negotiations shall be conducted as necessary.

II-II COMPETITIVE SEALED BIDDING

I. INTRODUCTION

This policy sets forth procedures for procuring goods and services through competitive sealed bidding which the estimated sum of an individual purchase or the estimated aggregate or sum of all phases reaches or exceeds \$200,000 §2-395 - §2-2-420 of the Code of Petersburg.

II. DEFINITIONS

1. **Competitive Sealed Bidding** – the preferred method for procurement of goods and services in which award is made to the lowest responsive and responsible bidder based solely on the response to the specifications, terms and conditions set forth in the Invitation for Bid.
2. **Invitations for Bid (IFB)** – a formal solicitation containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement.
3. **Responsive Bidder** – a person who has submitted a bid that conforms in all material respects to the Invitation for Bid.
4. **Responsible Bidder** – a person who has the capability in all respects to fully perform the contract requirements and the moral and business integrity and reliability that will assure good faith performance.

III. POLICY

All purchases shall be made in compliance with *Chapter 43, title 2.2- 4303 of the Code of Virginia entitled Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Procurement Manual and Procedures, and any other regulations as applicable.

IV. PROCEDURES

1. The Procurement Office begins the process for competitive sealed bidding upon receipt of an approved requisition **(the requisition must be approved by the department director and/or agency head. Procurement staff will verify funds prior to issuance of solicitation.**
2. The Procurement Office sends an IFB notification to vendors contained on the bidders list for the requested goods and services. At least ten days prior to the date of opening, a public notice of the IFB is posted on the City's website, bid board, Commonwealth of Virginia (eVA) electronic procurement portal and/or may be placed in a newspaper of general circulation.

3. All bids are held unopened in a locked file until the time and date stated in the IFB. While the bidders list is public information, the names of vendors who have submitted a bid are not to be made public until the actual bid opening time. At that time, all bids are opened publicly, the results read aloud, and recorded on a tally sheet, and then either forwarded to the using department/agency for their evaluation and award recommendation or kept in the Procurement Office and the evaluation and award recommendation is made by the Procurement Staff. Two people must conduct the public bid opening when vendors are present – one to open and read the bid, and one to record the results. Should no vendors be present, there may be only one staff member involved in tallying the results since there would be no need to read the bid aloud.
4. Any bid received after the announced time and date for submittal, whether by mail or otherwise, will be rejected. The time of receipt shall be determined by the time clock stamp in the Procurement Office. Bidders are responsible for ensuring that their bids are stamped by the Procurement Office personnel before the deadline indicated on the IFB. Late bids received in the Procurement Office will be so noted in the IFB file. Late bids received by mail or courier will be time stamped and returned unopened with a letter to the vendor indicating that it was received late, and a copy of the letter and envelope placed in the IFB file. Late bids that are hand delivered by a vendor will be time stamped and the envelope copied. The envelope will then be given back to the vendor and the copy placed in the IFB file.
5. Bids are evaluated based upon the requirements set forth in the IFB and award is made to the lowest responsive and responsible bidder.
6. Bidders are afforded the opportunity, upon request, to inspect bid records within a reasonable time after the opening of all bids but prior to the award.
7. The general public will be afforded the right to inspect bid records only after award.
8. The file of canceled IFBs is not open to inspection by bidders or the public.

II-III COMPETITIVE NEGOTIATION

I. INTRODUCTION

This policy sets forth procedures for procuring professional services and selected goods and non-professional services through competitive negotiation when the estimated sum of an individual purchase or the estimated aggregate or sum of all phases reaches or exceeds \$200,000 §2-421- §2-422 of the Code of Petersburg.

II. DEFINITIONS

1. **Competitive Negotiation** – a method of contractor selection utilizing a Request for Proposal (RFP)
2. **Request for Proposal (RFP)** – a formal document indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.
3. **Offeror** – any person from whom a proposal has been received.
4. **Evaluation Committee** – persons selected to participate in the competitive negotiation process for the purpose of recommending award of a contract for a project or service.
5. **Professional services** – work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. (*Virginia Public Procurement Act {VPPA} 2.2-4301*).
6. **Non-professional services** – any services not specifically identified as professional services in the definition of professional services. (*VPPA 2.2-4301*).

III. POLICY

All purchases shall be made in compliance with *Chapter 43, title 2.2 -4303 of the Code of Virginia entitled Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Purchasing Manual and Procedures, and any other regulations as applicable.

IV. PROCEDURES

1. **Using Departments/Agencies** – The using departments/agencies submits a purchase requisition. The information outlined below shall be included in the

requisition by the using department/agency. This information will form the basis of the RFP that is sent to prospective offeror(s):

- i. Purpose statement.
- ii. Detailed scope of work or specifications.
- iii. Time frames in which the work should be completed, or goods are to be delivered.
- iv. Identify any assistance or information to be furnished by the City.
- v. Special instructions for preparation and submission of the proposal.
- vi. Suggested criteria that will be used in evaluating the proposal.
- vii. Suggested evaluation committee members (Evaluation committee members, names, titles, departments and email addresses must be submitted with the requisition). The committee members will be reviewed by the Purchasing Agent prior to the receipt of proposals.

2. Procurement Office

- i. The Procurement Office begins the process for competitive negotiations upon receipt of an approved requisition **(the requisition must be approved by the department director and/or agency head. Procurement Office staff will verify funds prior to issuance of solicitation.**
- ii. The evaluation criteria to be listed within the RFP must be carefully developed. The criteria should be looked upon as standards which measure how well an offeror's approach meets desired performance requirements and which permit an evaluation of the differences between desired performance characteristics and what the offeror proposes to do. Criteria are normally divided into several categories covering the offeror's technical capability and, for non-professional services only, the competitiveness and reasonableness of the cost of services. Examples of evaluation criteria are listed below:
 1. Scope of work the offeror will provide. Offeror(s) must be instructed that a mere repetition of task taken from the scope of work will not be considered responsive to the RFP. The offeror must show an understanding of the significance of each individual task.

2. Clearly demonstrated understanding of the project and completeness and reasonableness of the offeror's plan to provide the required services.
 3. General comments concerning the particular way in which the offeror would approach the assignment.
 4. Provide recommended hours for each item in Scope of Services, and total hours recommended for the entire project (for non-professional services only).
 5. Resumes of key personnel who would be assigned to the project.
 6. Substantiated representation regarding the offeror's technical capabilities and professional competence to accomplish the required work.
 7. A review of the depth and variety of staff disciplines available within the company or corporate structure.
 8. Provide present known workload in relation to available man-hours.
 9. Estimate time of contract completion.
 10. Substantial successful experience in performing similar projects.
 11. Estimated cost of services (for non-professional services only)
- iii. The Procurement Office, in conjunction with the requestor, reviews and makes necessary changes to the RFP prior to the issuance. At this time, if not already established and approved, an evaluation committee, typically comprised of representatives from the using departments/agencies and the Procurement Office, shall be developed. Membership of the committee should include a diverse group of employees whenever possible.
 - iv. The Procurement Office sends a RFP notification to vendors contained on the City's bidders list and any suggested vendors from the agency, for the requested professional services and selected goods and non-professional services. At least ten days prior to the date set for receipt of proposals, a public notice of the RFP is posted on the City's website, bid board and/or may be placed in a newspaper of general circulation in the area in which the contract is to be performed.
 - v. The Procurement Office receives all proposals up to and until the time stated on the Request for Proposal. Offerors are responsible for ensuring

that their proposal is stamped by the Procurement Office personnel before the deadline indicated. Late proposals received will be time stamped and returned unopened with a letter to the vendor indicating that it was received late and a copy of the letter and the envelope placed in the RFP file. Late proposals that are hand delivered by a vendor will be time stamped and the envelope copied. The envelope will then be given back to the vendor and the copy placed in the RFP file.

- vi. Each member of the evaluation committee independently evaluates the proposals based on the criteria listed in the RFP and completes individual evaluation sheets. Each member of the evaluation committee shall include comments that support their assigned score. The Procurement Office will develop a composite matrix from the evaluation sheets to determine the ranking of all Offerors.
- vii. For professional services, *Conditions for use*. Purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiations, provided the aggregate or the sum of all phases is not expected to exceed \$80,000.00.

Where the cost of professional services is expected to exceed \$80,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services shall be procured by competitive negotiation. The City shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative nonbinding estimates of total project costs, including, but not limited to, life cycle costing, and where appropriate, nonbinding estimates of price for services. At the conclusion of discussion, on the basis of evaluation factors published in the RFP and all information developed in the selection process to this point, the City shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first (or highest). If the contract is satisfactory and advantageous to the City then the price can be negotiated until it is considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Purchasing Agent or his designee determine in writing at his sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable

than the others under consideration, a contract may be negotiated and awarded to that offeror.

- viii. For non-professional services, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposals, including price if so stated in the RFP. Negotiations shall then be conducted with each offeror so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the City shall select the offeror, which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should the Purchasing Agent or his designee determine in writing at his sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- ix. Procurement compiles complete documentation to support the award recommendation. Documentation shall consist of all proposals submitted and the following:
 1. Determination for use of competitive negotiations (for non-professional services only).
 2. Pre-award information to include correspondence, notes and draft solicitation.
 3. Bidding list.
 4. Newspaper advertisement and notice to offerors.
 5. Final copy of the RFP including addenda.
 6. Evaluation Committee approval.
 7. Weighted criteria and consensus documentation.
 8. Offerors/No proposal" submissions.
 9. Composite evaluation matrix (tally of scores).
 10. Correspondence to shortlisted firms.
 11. Negotiation planning/topics.

12. Negotiation results.

13. Committee concurrence of award recommendation.

14. Intent to Award notification

- x. The general public will be afforded the right to inspect proposal records only after award.
- xi. Offerors are afforded the opportunity, upon request, to inspect proposal records within a reasonable time after the award notification.
- xii. The file of canceled RFP's is not open to inspection by offerors or the public.

II-IV DESIGN-BUILD AND CONSTRUCTION MANAGEMENT CONTRACTS

I. INTRODUCTION

This policy sets forth procedures for procuring goods and services through the competitive negotiation process for the above-referenced services.

II. In accordance with Section §2.2-4380, Code of Virginia, and Code of Petersburg as §2-398,

(a) Pursuant to Code of Virginia, § 2.2-4308, the city is authorized to enter into contracts for construction on a fixed-price or not-to-exceed price design-build or construction management basis in accordance with this section.

(b) Prior to making a determination to use a design-build or construction management contract for a specific construction project, the city shall have in its employ or under contract an architect or professional engineer with professional competence appropriate to the project who will advise the city regarding the use of a design-build or construction management contract for that project and assist the city with the preparation of the request for proposals and the evaluation of proposals submitted by interested offerors in response to the request for proposals for that project.

(c) Prior to issuing a request for proposals for a design-build or construction management contract, the purchasing agent shall make a written determination, to be maintained in the file for the procurement, that:

- (1) Explains why a design-build or construction management contract is more advantageous than a competitive sealed bidding contract for the project;
- (2) Identifies the specific benefits to the city from using the design-build or construction management contract; and
- (3) Finds that competitive sealed bidding is neither practical nor fiscally advantageous to the city for the project.(d)

The selection, evaluation and award of design-build and construction management contracts shall conform to the requirements of this section. Requests for proposals for design-build and construction management contracts shall include and define the criteria of such construction projects in the areas of (i) site plans, (ii) floor plans, (iii) exterior elevations, (iv) basic building envelope materials, (v) fire protection information plans, (vi) structural, mechanical (HVAC) and electrical systems, (vii) special telecommunications and (viii) such other requirements as the using agency determines appropriate for that particular construction project. The procurement of each design-build or construction management contract shall be conducted in two steps. The first step shall consist

of a prequalification. The conduct of the prequalification step shall conform to the requirements of section 2-400. The second step shall consist of a competitive negotiation. The conduct of the competitive negotiation step shall conform to the requirements of section 2-421. For any guaranteed maximum price construction management contract, the contract shall require that (i) not more than ten percent of the construction work (measured by cost of the work) shall be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work shall be performed by subcontractors of the construction manager which the construction manager shall procure by competitive sealed bidding or competitive negotiations.

(e) The purchasing agent shall issue such rules, regulations and operational procedures pursuant to the authority granted to the purchasing agent by section 2-372 of this Code as may be necessary to implement the provisions of this section. Such rules, regulations and operational procedures shall be designed to conform to the requirements of state law and this Code.

II-V SOLE SOURCE PURCHASES

1. INTRODUCTION

This policy sets forth procedures for making sole source purchases. It is the intent of the City of Petersburg that contracts are awarded on a competitive basis; therefore, sole source purchases must be limited to those instances where only one source is practicably available *§2-391 – §2-392 of the Code of Petersburg*.

2. DEFINITIONS

- a. **Sole Source** – only one source practicably available for the goods or services required. Competition is not available in a sole source situation.
- b. **Practicable** – capable of being put into practice or of being done or accomplished; feasible.

3. POLICY

Sole source purchases shall be made in compliance with *§2.2-4303E of the Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Purchasing Manual and Procedures, and any other regulations as applicable.

4. PROCEDURES

a. Using Departments

- i. Complete a Request for Sole Source form providing appropriate justification to substantiate the request.
- ii. Submit a purchase requisition and include the completed Request for Sole Source form with attachments to include a quotation from the vendor and forward to the Procurement Office.

b. Procurement Staff

- i. Reviews and determines validity of the sole source request.
- ii. Obtains any additional written quotes and further information as applicable, i.e., insurance, bonding, contractor licensing, references.
- iii. With the assistance of the using agency conducts negotiations with vendor and includes documentation of the negotiation in the sole source file.

- iv. Carefully researches the product or service and determines the price is fair and reasonable. The written completed determination of price reasonableness may be based on price analysis or value analysis.
- v. Obtains approval and written determination of sole source from the Purchasing Agent or designee and publicly posts a written notice.

II-VI EMERGENCY PURCHASES

1. INTRODUCTION

This policy sets forth provision governing use of emergency purchases and seeks to provide uniformity in the utilization of emergency purchases thereby keeping using departments/agencies in conformity with City regulations yet making provisions for situations of emergency. Therefore, every effort must be made to keep them to an absolute minimum. Using departments/agencies must not make emergency purchases without first contacting the Procurement Office for approval except as permitted in Section IV.C. In any event, purchases must be in compliance with Section II, which defines emergency purchases. An Emergency Justification Form must be submitted with each requisition.

2. DEFINITIONS

Emergency – when there is an actual or potential disruption related to an essential service or other circumstances when supplies or services are needed for immediate use.

- a. Emergencies that are so significant as to cause an immediate threat to life, health, or property.
- b. Other emergencies, called operational emergencies, affect services but do not threaten life, health or property.

3. POLICY

Emergency purchases shall be made in compliance with *§2.2-4303F of the Virginia Public Procurement Act, the Petersburg City Code §2-393, the City of Petersburg Purchasing Manual and Procedures, and any other regulations as applicable.*

4. PROCEDURE

- a. Department directors, agency heads and their designees are responsible for the proper utilization of this emergency purchase policy and procedure. This responsibility includes, but is not limited to, proper documentation of emergency situations and providing accurate and sufficient information so as to comply with the provisions of this procedure. Requisitions received in the Procurement Office without the required documentation will be returned to the using department for the appropriate information detailing the specific circumstances that necessitated the emergency purchase.
- b. **Emergency Purchase During Office Hours** – Department directors, agency heads or their designee must contact the Procurement Office at the time the emergency situation is known and describe the emergency situation and approximate cost. If it

is determined that an emergency exists, the Procurement Office will issue an emergency purchase order number and either make the purchase itself or authorize the department/agency to purchase the needed materials or services. As time permits, competition from other contractors should be solicited to take advantage of any available savings. The Procurement Office may perform the search for competition or direct the using departments to do so. Such competition, including contractor name, prices, and date and contact person must be noted on the requisition. Also include any contractors that were contacted who could not quote. In situations when the emergency nature is questionable, the Procurement Office will deny the request and suggest that a requisition be submitted for processing using non-emergency procedures.

- c. **Emergency Purchases After Office Hours** – Operational emergency purchases over \$10,000 must be approved by the Purchasing Agent or designee prior to any commitment with a contractor. Purchases associated with emergencies that threaten life, health, or property is only subject to approval by the Purchasing Agent or designee if the amount of the purchase is \$100,000 or less. After hours, telephone number for the Purchasing Agent is available upon request. The City Manager must approve emergency Purchases exceeding \$100,000.
- d. A follow-up Purchase Requisition for Emergency Purchases made during and after office hours must be submitted.
 - i. Prepare purchase requisition and forward to the Procurement Office along with the purchase order number previously assigned (if emergency took place during office hours), the invoice when available, and the required documentation stating the specific emergency nature, which necessitated the purchase, plus provide the routine information submitted on a purchase requisition for a normal order. If a purchase was made after office hours, make a notation on the requisition stating this fact along with the name of the authorizing purchasing official.
 - ii. Written documentation shall include but not be limited to:
 - 1. Date of emergency
 - 2. Description of emergency
 - 3. Prices obtained from other contractors: contractor name, price, and date and contact person.
 - 4. Any contractors that were contacted, who did not quote a price.

SECTION III – PURCHASING SUPPORT INFORMATION

III-I ETHICS IN PUBLIC CONTRACTING

I. INTRODUCTION

This policy sets forth guidelines for governing the conduct of Purchasing personnel and those with official responsibility to function or participate in any procurement transaction *Subdivision VII §2-471- §2-482 of the Code of Petersburg.*

II. DEFINITIONS

- A. **Immediate family** – spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.
- B. **Official responsibility** – administrative, or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting from.
- C. **Pecuniary interest arising from the procurement** – a personal interest in a contract as defined in State and Local Government Conflict of Interest Act (*Code of Virginia, § 2.1-639.1.*)
- D. **Procurement transaction** – all functions that pertain to the obtaining of any goods, services or construction, includes description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- E. **Public employee** – any person employed by a public body, including elected officials or appointed members of governing bodies.

III. POLICY

- A. The following sections of the Virginia Public Procurement Act (VPPA) are mandatory and apply in all procurement transactions:
 - 1. *§ 2.2-4369* - Proscribed Participation by Public Employees in Procurement Transactions - Except as may be specifically allowed by provisions of the State and Local Government Conflict of Interest Act, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

- a. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
- b. The employee, the employees' partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;
- c. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
- d. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder offeror or contractor.

2. **§ 2.2-4371 - Solicitation or Acceptance of Gifts; Gifts by bidders, Offerors, Contractors or Subcontractors prohibited:**

- a. No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value.
- b. No bidder, offeror, contractor, or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value.

3. **§ 2.2-4370 - Disclosure of Subsequent Employment -**

No public employee or former public employee having official responsibility for procurement transaction shall accept employment with a bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the public body unless the employee or former employee provides written notification to the public body, or

both, prior to commencement of employment by the bidder, offeror or contractor.

4. § 2.2-4372 - Kickbacks:

- a. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything.
- b. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- c. No person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
- d. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

5. § 2.2-4377 - Penalty for Violation:

Any person convicted of willful violation of any provision of this article shall be guilty of a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

B. The State and Local Government Conflict of Interest Act (the Act) provides information that supplements the preceding sections from the VPPA. The details of the Act may become somewhat involved, and a comprehensive interpretation of the entire act is beyond the scope of this section.

1. The most significant aspect of the Act is that it prohibits employees and their immediate family from having contracts (or other financial relationships) with their employer other than their salary, provided, however, that the provisions of the Act do not apply to employee's interest in additional contracts for goods and services, or contracts of employment with his own government agency that accrue to him because of a member of his immediate family, so long as the employee does not exercise any control over (i) the employment or the employment activities of the

member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services.

2. Employees must think in terms of potential conflicts of interest or even the appearance of a conflict of interest before implementing any procurement-related transaction. If an employee suspects that some action may be a conflict, stop and seek a legal opinion through the appropriate channels from the City Attorney. Employees must sign a conflict-of-interest form prior to participating in any solicitation process
3. Vendor paid travel for City employees is prohibited. Exceptions to this policy must be approved in writing by the City Manager.

III-III SPECIFICATIONS

I. INTRODUCTION

This policy sets forth the procedures for the preparation of specifications to be used in the procurement of goods and services.

II. DEFINITIONS

- a. **Specifications** – a description of the physical or functional characteristics, or of the nature of supply, service, or construction item; the requirements to be satisfied by a product, material, or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied.
- b. **Standardization of Specifications** – the process of establishing a single specification for an item, or range of items.
- c. **Brand name or equal Specification** – using one or more manufacturers' brand names, with identifying model numbers, to describe the standards of quality, performance, and other characteristics needed to meet the requirements of a solicitation, and which invites bids for equivalent products from any manufacturer.
- d. **Brand name (no substitute) Specification** – a specification using one or more manufacturers' brand names, with identifying model numbers, to describe the acceptable items; all other items will be excluded.
- e. **Design Specification** – a specification establishing the characteristics an item must possess, including sufficient detail to show how it is to be manufactured.
- f. **Performance Specification** – a specification setting forth the capabilities and performance characteristics the article must satisfy.

III. POLICY

It is the City's policy that competition be sought to the maximum feasible degree. Specifications must reflect the procurement needs of the using department/agency rather than being drawn to favor a particular vendor (*Virginia Public Procurement Act § 2.2-4300C*).

IV. PROCEDURES

- a. **Specifications must begin with a noun.** A good specification should do four things:
 - i. Identify minimum requirements.

- ii. Allow for competition.
 - iii. List reproducible test methods to be used in testing for compliance with specifications where appropriate.
 - iv. Provide for an adequate award.
- b. **Vendor Assistance in Specification Preparation** – Advice or assistance may be receiving from a vendor in identifying the features and characteristics needed by the using department/agency; however, no person who, for compensation, prepares an Invitation for Bid or Request for Proposal for or on behalf of a public body shall:
 - i. Submit a bid or proposal for that procurement or any portion thereof or;
 - ii. Disclose to any bidder or offeror information concerning the procurement which is not available to the public. The name of the vendor(s) providing assistance must be submitted with the requisition to the Procurement Office.
- c. **Specification Development** – The specification process starts at the user level, where the goods or services to be procured are identified and described. The responsibility of reviewing, modifying and approving specifications shall rest with the Procurement Office. Purchasing will make every effort to ensure that the specification is not restrictive.

III-IV DEFINITIONS

I. INTRODUCTION

For the purposes of this manual, the following words and phrases shall have the meanings respectively ascribed to them. Nothing in this section shall preclude the City Manager or his designee from defining additional terms and provide consistency for the purposes of this manual in the conduct of procurement related activities. *§2-354 of the Code of Petersburg.*

Act or VPPA - Virginia Public Procurement Act, Title 11 Chapter 7 of the Code of Virginia

Addendum/Addenda - A written change, addition, alteration, correction or revision to a bid, proposal or contract document. Addendum/Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or scope of work change to the solicitation.

Brand Name Specification -A specification limited on one or more items manufacturers' names or catalog numbers.

Brand Name or Approved Equal Specification - A specification limited to one or more items by manufacturer' names or catalog numbers, to describe the standard of quality, performance, and other salient characteristics needed to meet the requirements of the City and which provides for the submission of equivalent products.

Business - Any corporation, general or limited partnership, individual, sole proprietorship, Joint Stock Company, joint venture or any other non-governmental legal entity. Business shall be synonymous with vendor.

Change Order -A modification of the contract requirements issued in writing by the procuring agent subsequent to the formal execution of the contract documents which involves a change in contract price and/or the contract time.

City -The City of Petersburg, a municipal corporation of the Commonwealth of Virginia, in its present incorporated form or in any other reorganized consolidated or changed form.

City Code -"The Code of the City of Petersburg", including the Charter and such ordinances of a general and permanent nature promulgated by the governing body.

Conflict of Interest - A clash between the public interest and the private pecuniary interest of the individual concerned.

Contract - A legal obligation between a buyer and a seller to perform certain duties/provide certain goods. General requirements of a contract include an offer and acceptance by capable parties; mutual assent/consent; lawful objective, and mutual consideration.

Construction -The process of utilizing labor for building, altering, repairing, improving or

demolishing any structure, building or highway, and any draining, dredging, excavating, grading or similar work upon real property.

Contract Modification - Any written alteration in a specification, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract.

Contractor - Any person having a contract with the City or a using agency thereof.

Cost-reimbursement Contract - A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and provisions of this ordinance, and a fee or profit, if any.

Design-build Contract - A contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

Emergency - An emergency shall exist when a breakdown in an essential service occurs or under any circumstances when goods or services are needed for immediate use in work which may vitally affect the safety, health or welfare of the public.

Goods - All material, equipment, supplies, printing and automated data processing hardware and software.

Immediate Family - A spouse, child, parent, brother and sister, and any other person living in the same household as the employee.

Insurance - A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Informality - A minor defect or variation of a bid, proposal, or other offer from the exact requirements of the Invitation for Bid, the Request for Proposal, or other solicitation, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

Invitation for Bids - All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids; Request for Bids (RFB) shall be synonymous with Invitation for Bids (IFB).

Nominal Value - So small, slight, or the like in comparison to what might properly be expected, as scarcely to be entitled to the same.

Life Cycle Costing - An evaluation that takes into account all costs incidental to the planning, design, construction, operation, maintenance and disposal of a system or facility calculated in terms of present value, annual owning and operating costs.

Non-Professional Services - Any services not specifically identified as professional services in the definition below.

Non-Transportation Related Construction - Any construction project that does not require Virginia Department of Transportation approval.

Official Responsibility - Administrative or operating authority, whether intermediate or final, to initiate, approve/disapprove or otherwise affect procurement transactions or any claim resulting there from.

Pecuniary Interest Arising from the Procurement - a personal interest in a contract as defined in the *State and Local Government Conflict of Interest Act*.

Potential Bidder or Offeror - Any person, for the purposes of emergency and sole-source purchases, who at the time the City negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or sale of the services of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

Procurement Transaction - All functions that pertain to the obtaining of any goods, services, insurance, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Professional Services - Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, professional engineering, or as subsequently amended by the Virginia Procurement Act.

Public Body - Any person employed by a public body, including elected officials or appointed members of governing bodies.

Public Contract - Any form of agreement between a public body/the City and a nongovernmental source that is enforceable in a court of law.

Purchase Order - A form of contract, which provides the supplier authorization to provide goods/services and is the purchaser's commitment for the value of the goods/services. Special terms and conditions may be incorporated in the purchase order by reference.

Qualified Products List - A form of specification in which various brands have previous approval; the Invitation for Bids or Request for Bid is limited to those products of the list.

Quotation Analysis - The review and appraisal of competitive offers including a record of the considerations which are recognized by the buyer, including but not limited to price, which were the basis of the selection.

Requisition - A written or electronic communication describing the needs of the using agency to the Procurement Office, a request to purchase. It includes appropriate authorization of the using agency to proceed to purchase the designated items and the appropriate funding source/account to be charged.

Request for Proposal - All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Request for Qualifications - A document is issued by a procurement entity to obtain statements of the qualifications from bidders prior to issuing the solicitations. An attempt to gauge potential competition and obtain information which may be helpful when writing a statement of work or developing specifications.

Responsible Bidder or Offeror - A person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.

Responsive Bidder - A person who has submitted a bid which conforms in all material respects to the Invitation to Bid and all of its requirements, including form and substance.

Services - Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

Sheltered Workshop - Any work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

Small Dollar Purchases -The respective procurement and transaction amounts, which apply when said requirement is exempt from formal competitive sealed bid or sealed proposal procedures, as established herein.

Tie Bid - Two or more bids in which all things are equal with regard to product, price, delivery terms and availability, and payment terms.

Using Agency - Any department, division, section, office, agency, board, commission, bureau, or other unit in the City government requiring goods, services, insurance or construction as provided for in this ordinance.

SECTION IV – UNIQUE PURCHASE SITUATIONS

IV-I BLANKET PURCHASE ORDERS

I. INTRODUCTION

This policy sets forth the procedures for the use of Blanket Purchase Orders. Blanket purchase orders are designed for routine or repetitive purchase of goods or services. Generally these goods or services are small dollar amounts and the use of blanket orders reduces the administrative costs and paperwork associated with these purchases. Another advantage is that the vendor bears the cost of warehousing commodities and, consequently, this helps reduce the City's inventory investment. Blanket orders are frequently established with vendors for commodities and services that are on City requirements contracts.

II. DEFINITIONS

- a. **Blanket Purchase Orders** – an open purchase order between a purchaser and a specific vendor that allows a commodity, group of commodities or specific service to be purchased during a set period of time. The agreement outlines the goods or services to be delivered, the terms of purchase, and establishes a maximum dollar limitation on the total dollar value of goods and/or services provided under the blanket purchase order.

III. PROCEDURES

- a. Each using department/agency is responsible for making an accurate dollar forecast as they create a requisition for a blanket purchase order. To facilitate this, the using department/agency must track all charges made against each blanket order.
- b. Department directors, agency heads or their designees shall inform all of their pertinent staff members of this procedure and shall be responsible for the proper use of these orders. Department director, agency heads or their designees are to ensure that invoices approved against blanket purchase orders, established from City, state contracts, etc., are in strict compliance with the pricing structure and payment terms set forth in the particular contract. For blanket orders that are not established against a contract, it is the sole responsibility of the using department/agency to ensure that reasonable prices are paid for the goods and services procured.
- c. In those situations when the department/agency desires award to a specific vendor, appropriate documentation as to why only that vendor should receive the award must be included on the requisition. For example, acceptable

documentation would be that a particular vendor is a sole source with written documentation to substantiate that request.

- d. In addition to the data always furnished by using departments/agencies on a purchase requisition (i.e. deliver to location, requisition number, accounting codes, etc.) the following should be included on each request to set up a blanket order:
 - i. State proposed or recommended vendor name and address.
 - ii. Give description of goods or services to be placed on the blanket order.
 - iii. Dollar amount of the blanket order
 - iv. Documentation as to why award is to be made to a specific vendor (*see section III.C.*)
- e. Requirements for authorized city employees using blanket purchase orders:
 - i. Employee utilizing a blanket purchase order at a vendor's place of business must show City identification to the vendor, if requested.
 - ii. Employee furnishes the blanket purchase order number to the vendor, if requested.
 - iii. Employee shall always sign for items when they are physically received. Documentation of this signature will be forwarded with the invoice to the Accounts Payable (noted as partial payment).
 - 1. At a minimum the following information should be included on the invoice:
 - a. Purchase Order number
 - b. Partial Payment number

Unspent Balances – any unspent balance as of June 30 of each fiscal year is automatically canceled.

IV-II CHANGE ORDERS

I. INTRODUCTION

This policy sets forth procedures for modifying an existing contractual document through use of a change order.

II. DEFINITIONS

Change Order – a written alteration to a purchase order (PO) or any other contractual document signed by the purchasing authority that changes the prices of the contract, the scope of work, time of performance, or any other provision within the contract.

III. PROCEDURE

a. Changes to \$ 10,000 or less PO's

- i. **Making the Change** - When it becomes necessary to make changes to a \$10,000 any P.O., the change to the PO must be initiated by the using department/agency and forwarded to the Procurement Office.
- ii. **Encumbering the Change** – The PO must be reprinted by the Procurement Office in order to encumber the change.
- iii. **The Purchasing Agent or City Manager must approve changes that increase the PO amount above delegated authority.**

b. Changes to Construction or Architectural & Engineering contracts – When departments/agency require changes to a construction contract, except as exempt by City Code, the following conditions must be met:

- i. The department shall prepare a Construction Change Order form in compliance with the following:
 1. **Approval Level** – Subject to the provision of this section of this policy, the same official who has authority to execute a contract on behalf of the City shall have the authority to execute change orders or other amendments to that contract.
 2. **Signing by the Contractor** – If a contractor is an individual, that individual shall sign the Construction Change Order form on behalf of the contractor. If a contractor is a partnership, a general partner of the partnership shall sign the Construction Change Order form on behalf of the contractor. If a contractor is a corporation, the President, Vice President, or other person approved by resolution of

the Corporation's Board of Directors shall sign the change order on behalf of the contractor. If a contractor is a limited liability corporation, a member of the limited liability corporation shall execute the change order on behalf of the contractor.

3. Approval by Purchasing Agent – The Purchasing Agent will review the change order to ensure it is within the scope of the contract, approve the change order and forward to City Manager for approval. If the Purchasing Agent disapproves the Change Order, the Purchasing Agent will make suggested procurement method recommendation.
 4. Approval of Change Orders by the City Manager and/or City Council - the City Manager shall approve all construction change orders. The City Council shall approve all construction change orders that increase the original contract amount by more than 25% or \$100,000, which ever is greater.
 5. Appropriation – change order shall NOT be executed unless sufficient funds have been appropriated by City Council to authorize payment pursuant to the change order. The department director or designee, who is responsible for administering the contract, shall be responsible for coordination with the Finance Department to ensure sufficient funds have been budgeted to execute the change order.
 - ii. Once all approvals have been secured, the change order will be returned to the Procurement Office to draft the modification document and encumber or disencumber the funds.
- c. **Cumulative contract modifications** – To purchase orders under the small purchase procedure shall not exceed 25% of the original contract price without the review and approval of the Purchasing Agent or City Manager.
- d. **Changes to other contractual documents** – When the determination is made that a change is required to a contract document other than a construction contract or architectural/engineering services contract, the following steps shall apply:
1. Departments shall prepare documentation to support the change, submit a non-construction change request form, outlining the change to the Purchasing Agent.
 2. The Purchasing Agent shall review and approve or disapprove the contract amendment. If the Purchasing Agent disapproves the contract amendment, the Purchasing Agent will make suggested procurement method recommendation.

IV-III DELEGATED PURCHASE AUTHORITY

1. INTRODUCTION

This policy sets forth the procedures for delegated purchase authority for transaction of \$9,999.99 or less. Department Directors and their designees are authorized to make purchases of \$9,999.99 or less for legitimate business purposes without going through the Procurement Office while accepting responsibility for complying with the policy. One (1) quote shall be obtained and maintained in agency records.

2. EXEMPTIONS

Using departments/agencies **may not utilize delegated purchase authority when contracts must be signed with a vendor.** All contracts that must be signed shall be forwarded to the Procurement Office for review. If vendor requires a formal purchase order, agency shall submit a purchase requisition with quote to the Procurement Office for processing of a purchase order.

3. DEFINITIONS

\$9,999.99 or less—a contract (verbal or written) between a using agency and a vendor for the purchase of goods or services.

4. PROCEDURES

- a. The department director is responsible for the administration and monitoring of delegated purchasing authority. Misuse or violation of procedures must be promptly reported to the City Manager and the Procurement Office. The privilege of delegation may be revoked upon discovery of any violation of this policy.
- b. Using departments/agencies must locate sources from which goods or services are to be purchased. Purchases of goods or services from a city employee or member of one's family or for any present or promised personal gain are illegal. One (1) quote shall be obtained by the using agency. It is the responsibility of using departments/agencies to seek additional quotations if they believe the price is not competitive to ensure the price paid is fair and reasonable. Along with recording the price, using departments/agency's staff shall also document the vendor name, telephone number, payment terms, delivery date, freight/shipping cost, vendor contact and date of the quotation.
- c. Using departments/agencies must inform the selected vendor that the purchase order number must appear on all invoices. Using departments/agencies are responsible for follow up of back-ordered items, expediting late deliveries, and handling problems with deliveries and invoices.

- d. Using departments/agencies shall not split orders to keep the dollar level of several orders below \$9,999.99 to avoid sending a requisition to the Procurement Office. In addition, vendors must not be asked to invoice at intervals to keep a purchase below \$9,999.99. The frequency of a purchase for the same good or service shall not occur with the same vendor during the three (3) month period of the initial purchase.
- e. When a using department/agency needs goods or services and these goods or services are covered by an existing citywide requirements contract, the department is required to purchase from the contracted vendor (s) in accordance with the contract. Questions regarding whether a commodity or service is available on a requirement contract should be referred to the Procurement Office. If the using department/agency making a delegated purchase believes there is a valid reason not to utilize the contract, they must contact the Procurement Office to explain the reasons the contract does not meet their needs. Upon written approval from the Procurement Office, the requesting department/agency will document in writing why the citywide requirements contract was not utilized and attach to the purchase requisition.

SECTION V – PURCHASING ADMINISTRATION

V-I CONTRACT ADMINISTRATION

I. INTRODUCTION

This policy sets forth guidelines for the administration of contracts to ensure that vendor's and using department /agency's performance is in accordance with the terms and conditions of contracts. City policies and procedures require goods and services to be furnished, received, invoiced and paid in accordance with the contract.

II. DEFINITIONS

Contract Administration – the management of all actions that must be taken to ensure compliance with the terms of the contract after the award of the contract.

III. PROCEDURE

a. Using Departments

- i. After awarding a contract, using departments/agencies are responsible for contract administration to ensure that the vendor fulfills the obligations of the contract.

- ii. Using departments/agencies must ensure that procedures exist to ensure effective contract administration, i.e., inspection and acceptance/rejection of goods or services, scheduling and monitoring of project progress, approval of invoices, and request for modifications and change orders.
- iii. Report specific instances to the Procurement Office, as they occur, of a vendor's failure to perform through the use of a vendor complaint form.
- iv. For requirements contracts, which specifically contain renew clauses, using departments/agencies will be required to complete a Contract Renewal Notice providing information and authorizing the Procurement Office to negotiate renewal of the contract.

b. Procurement Office

- i. Assist using departments/agencies, as required, with contract administration to ensure that the vendor fulfills the obligations of the contract.
- ii. Provide using departments/agencies with contract documents outlining terms and conditions of the contract, i.e., pricing, delivery, or performance schedule, commodity or service type.
- iii. In exceptional or extenuating circumstances, approve/negotiate an extension of an existing contract. The City may extend a contract up to, but not to exceed, 12 months following the last term of renewal.
- iv. Respond to using departments/agencies reports of complaints and/or discrepancies on vendor performance. Issue written notification to a vendor placing them on notice that they have failed to meet the contract requirements, provide the vendor a period of time to correct the deficiency, and place the vendor on notice as to the consequences for failure to take the required corrective actions.

V-II PAYMENT AUTHORIZATION OF GOODS AND SERVICES

I. INTRODUCTION

This policy sets forth procedures for receipt and payment authorization of all goods and services.

II. DEFINITIONS

- a. **Inspection of goods** – the close and critical examination of all commodities delivered.
- b. **Verification of services provided** – the review of work and activities performed by an independent contractor.
- c. **Fixed Price Contract** – a contract providing for a firm price, or price that may be adjusted only in accordance with contract clauses providing for revision of the contract price under stated circumstances.
- d. **Time and Materials Contract** – a contract which provides for the acquisition of supplies or services on the basis of direct labor hours at specified, fixed, hourly rates that includes wages, overhead, profit, and general and administrative expenses, and material at cost.
- e. **Receiving/payment authorization** – the process of receiving goods and services constitutes authorization to pay the amount shown on the purchase order.

III. PROCEDURE

- a. **Inspection of goods and verification of services**
 - i. Inspection of goods must be made at the time of receipt or as soon as possible. Critical examination includes, but is not limited to the following:
 - 1. Inspect goods for damages either obvious or concealed.
 - 2. Inspect deliveries to determine if shortages exist.
 - 3. The delivery consists of new and unused merchandise unless otherwise specifically ordered.
 - 4. Goods delivered meet the quality, grade, or standard specified in the order.

5. Design, construction, ingredients, size, type, make, color, style, etc. of the goods delivered conform to the requirements of the order.
 6. Packing, labeling, marking or other means of identification meet specifications, or conform to the best commercial practices for protecting the items during transportation, storage, handling, and distribution.
 7. Goods comply with specification requirements in all essential respect and in accordance with the terms and conditions of the order.
- ii. Verification of services ensures all work and activities have been performed in accordance with the contract.
1. Fixed price contract – ensure proper receipt of all services in accordance with the contract amount.
 2. Time and materials contract – using departments shall ensure the number of actual labor hours and cost per hour and an itemized list of all materials used and their associated cost are in accordance with the contract.

b. Payment Authorizations

1. **Deliveries where goods and services received are as ordered** – when goods and services received are as ordered, the department/agency documents the receipt on the packing information and forward the invoice to the finance department for payment processing.
2. **Deliveries where goods and services received are NOT as ordered and were against purchase orders ORIGINATED BY PURCHASING** – when goods and services received as not as ordered, the department/agency shall take the following steps:
 - a. Notify the Procurement Office immediately in writing describing the exact nature of the discrepancy.
 - b. Await further instructions from the Procurement Office.
 - c. Purchasing, after reviewing the information, will contact the vendor to explain the discrepancy, then the vendor shall be responsible for shipping cost. Purchasing will settle the matter with the vendor and forward a copy of any discrepancy documentation with corrective action to the using department/agency.

- d. It shall be the responsibility of the using department/agency to prepare the goods for shipment back to the vendor and ship as directed by the Procurement Office.
-
3. **Deliveries where goods and services received are NOT as ordered and were ORIGINATED BY THE USING DEPARTMENT/AGENCY** – when goods and services received are not as ordered, the responsibility for handling any discrepancies rests solely with the department/using agency. At a minimum, the following steps should be taken:
 - a. Notify the vendor immediately of the discrepancy.
 - b. If the incorrect shipment is the fault of the vendor, then the vendor shall be responsible for the cost of shipment.
 - c. Prepare the goods for shipment back or pick up by the vendor including any required return authorization.

V-III REVIEW/APPROVAL FOR IFB/RFP FILES AND NON-CITY CONTRACT PURCHASES

I. INTRODUCTION

This policy sets forth the levels of authorization for review and approval of Invitation for Bid (IFB) Files, Request for Proposal (RFP) files, and Non-City Contract purchases.

II. DEFINITIONS

- a. **Non-City Contracts** – State, General Services Administration (GSA), U.S. Communities, cooperative procurement agreements, etc.

III. LEVELS FOR REVIEW AND APPROVAL OF IFB/RFP FILES AND NON-CITY CONTRACTS PURCHASES

Dollar Range	Procurement Office Staff	Purchasing Agent	City Manager
Less than \$10,000	X		
\$50,000 - \$199,999.99	X	X	
\$200,000 and above	X	X	X

IV. PROCEDURE

- a. **Invitation for Bid (IFB)** – Procurement Office staff prepares and submits the Bid Award and supporting documentation to the Purchasing Agent, for review and approval, if the contract is above \$100,000, the Purchasing Agent shall forward the documentation to the City Manager for approval. All approval documentation is maintained in the appropriate IFB file.
- b. **Request for Proposal (RFP)** – Procurement Office staff prepares and submits the RFP Award summary and supporting documentation to the Purchasing Agent for review and approval if the contract is above \$100,000 the Purchasing Agent shall forward the documentation to the City Manager for approval. All approval documentation is maintained in the appropriate RFP file.
- c. **Non-City Contract** – Prior to a purchase order being issued, all purchases from non-city contracts will be subject to the levels of review and approval in Section III above.

V-IV CONTRACT AWARD AND SIGNING

I. INTRODUCTION

This policy sets forth who is authorized to award and sign all public contracts for the purchase and lease of goods and services for the City.

II. DEFINITIONS

- a. **Construction** – building any new structure, building, or highway, and any draining, dredging, excavation, grading, or similar new work upon real property. As opposed to repairs. Examples include but are not limited to building additions and renovations; new buildings; new parks project and additions; pre-engineered buildings; modular buildings; warehouse, etc.; new roads; site-work: clearing, grading, landscaping; and utilities construction.
- b. **Consulting Services** – services of an advisory nature to support policy development, decision making, administration, or management of the government; normally provided by persons and/organizations considered to have prerequisite knowledge or special abilities not generally available in the government. Examples of various consultant services: financial advisor, management planning, etc.
- c. **Professional Services** – work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine optometry, pharmacy, or professional engineering.
- d. **Goods** – all material, equipment, supplies, printing, and computer hardware and software.
- e. **Facilities, Services, Equipment, and Repair Contracts** – examples include but are not limited to asbestos abatement, bleacher installation, concrete work, data and voice wiring, demolition, equipment repair, fence installation, HVAC systems installation, laundry equipment installation, moving services, parks repair/replacement projects, paving, replacement lighting system installation at City parks and City athletic facilities, roofing, security system installation, vehicle repair
- f. **Maintenance Contract** – a contract for the upkeep of property that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.

III. POLICY

All construction contracts must be approved as to form by the City Attorney, prior to award and signing.

IV. PROCEDURE

a. Contract Award and Signing Levels

- i. The City Manager or designee is authorized to award and sign all public contracts on behalf of the City.
- ii. The Purchasing Agent or designee is authorized to award and sign all public contracts on behalf of the City up to \$100,000 except for construction contracts.

V-V SURPLUS PROPERTY

I. INTRODUCTION

This policy sets forth procedures for the transfer and disposition of surplus property
Subdivision IV§2-431- §2-435.

II. DEFINITIONS

- a. **Surplus Property** – property in excess of the needs of a city department.

III. PROCEDURE

a. Using Departments/Agencies

- i. Using department/agencies may transfer property for potential use within the City. Notification of the transaction must be forwarded to the Procurement Office with any pertinent information regarding the initial acquisition.
- ii. Using department/agency shall notify the Procurement Office in writing the declaration of surplus property and the suggested disposition method by use of City of Petersburg Surplus Form.
- iii. Under no circumstances shall any surplus property be kept or used by any employee of the City for personal use.

b. Procurement

- i. The Procurement Office determines the final disposition of surplus property in one of the following ways:
 - 1. Trade-in on new equipment
 - 2. Sale by competitive sealed bid
 - 3. Sale of public auction – Prior to the auction, the Purchasing Agent or designee must determine in writing that it is more advantageous that goods be sold at public auction, instead of by competitive sealed bid.
 - 4. Sale to salvage houses

5. Alternate disposal methods approved by the Purchasing Agent or designee.
6. Negotiated sales to other governments provided that the sale is at fair market value and prior written approval is obtained from the Purchasing Agent.
7. The Procurement Office documents transactions, collects and deposits revenue into the City's general fund.

V-VI DEFAULT

I. INTRODUCTION

This policy sets forth procedures to be followed by the City when a default action becomes necessary.

II. DEFINITIONS

- a. **Default** – Failure to comply with the terms and conditions of the contract.

III. POLICY

a. **Default**

- i. A contractor is considered in default if the contractor fails to perform in accordance with the terms and conditions of the contract (i.e., late delivery, nonconformance to specifications). The following factors should be considered prior to taking any action:
 - 1. The specific reason for such failure. For example, Contractors shall not be liable for any excess cost if the failure to perform arises out of any act of war, order of legal authority, strikes, acts of God, or other unavoidable causes not attributed to their fault or negligence. Failure of a contractor's source to deliver is generally not considered to be an unavoidable cause. The burden of proof rest with the contractor.
 - 2. The period of time needed to obtain the goods or services from other sources compared to the time delivery or performance could be accomplished by the delinquent contractor.
- ii. As soon as using departments/agencies become aware that a contractor is not performing in accordance with the contract, then the Procurement Office should be notified immediately in writing. The using agency should document the issues to include dates.
- iii. If the Procurement Office determines that it is in the City's best interest to attempt to resolve the issue then:
 - 1. Informal method such as phone calls or emails may be used.
 - 2. If an unacceptable contractor response, resolution, or action is received, the Procurement Office may issue a "Notice to Cure" letter whereby the issues are clearly stated and the contractor is given a

specific time frame in which to resolve the issues. For example, the purchase order required delivery on a certain date. The contractor had failed to deliver by that date and has not been able to provide a satisfactory date as to when they can deliver. In this case, a "Notice to Cure" letter may be issued.

3. Should the contractor fail to satisfy the requirements of the "Notice to Cure" letter then the goods or services should be purchased from another source following the City's policies and procedures. If debarment is warranted, then proceed to the City's Policy on Debarment.

V-VII DEBARMENT

I. INTRODUCTION

This policy sets forth procedures to be followed by the City when a debarment action becomes necessary. Debarment is an additional action that the City may take should a contractor be placed in default. Debarment is applicable to actual and prospective bidders, offerors and contractors. The debarred person or firm shall be removed from conducting business with the City for the term of the debarment Subdivision V§2-441- §2-444.

II. DEFINITIONS

- a. **Debarment** – to exclude a person, or firm, or any part of a firm, from contracting with the City for particular types of goods and/or services for a specified period of time.

III. POLICY

In case of default by a contractor for failure to deliver or perform in accordance with the contract specifications or terms and conditions, the City may procure the goods or services from other sources and hold the defaulting contractor responsible for any resulting additional purchase and administrative costs. This may lead to debarment action being taken by the City.

Section 2.2-4321, of the Code of Virginia states that prospective contractors may be debarred from contracting for particular types of supplies, services, insurance or construction, for specified periods of time.

Debarment does not relieve a contractor from its responsibilities for existing obligations to the City.

A debarred contractor may be reinstated by the City during the term of debarment at any time it is in the best interest of the City.

IV. PROCEDURE

a. **Debarment:**

- i. The Purchasing Agent may debar an actual or prospective bidder, offeror, or contractor for any of the causes listed below. The existence of a cause for debarment; however, does not necessarily require that the contractor be debarred. The seriousness of the contractor's acts or omissions and any mitigating factors should be considered in any debarment decision.

Debarment may be instituted for:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state and federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which currently, seriously and directly affects responsibility as a city contractor;
 3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth in this subsection, of a character which is regarded by the city council to be so serious as to justify debarment action;
 5. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in a contract; or
 6. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
 7. Any other cause the city council reasonably determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause in this division, or for violation of the ethical standards provided by general law.
- ii. Debarment shall be initiated by a notice written from the Purchasing Agent advising the contractor, by certified mail, return receipt requested, that debarment is to become effective ten days from the date of the notice. Such notice shall include the reasons for the proposed debarment in terms sufficient to place the contractor on notice of the conduct or transaction upon which the debarment is based.
 - iii. The contractor may, during the ten day notice period mentioned above, present a written response for reconsideration, including additional specific information relating to the reasons given for debarment. The City Manager or designee shall consider such additional information in reaching a

decision as to whether the decision to debar should be delayed or revised. Should it be decided that the original decision to debar is proper and justified based upon the information contained in the notice to the contractor, the contractor shall be debarred and the only remedy of appeal available to the contractor shall be that contained in the VPPA.

- iv. A debarred contractor may not apply to the City for rescission of debarment earlier than one year from the final debarment date. The term of debarment shall last until the contractor is reinstated by the City, and during the debarment term the contractor shall not be permitted to competitively quote, bid or propose goods or services solicited by the City. Should the debarment action involve funds that the contractor owes the City, and then the debarred contractor may apply for rescission of the debarment upon full payment in full of the debt owed to the City.
- v. If a contractor is reinstated, the contractor shall be placed on the City's vendor's list. To be reinstated, the contractor shall be required to submit with his written request a list of at least three references with whom the contractor has satisfactory conducted business within the past year. The contractor's application shall not be processed until the required references have been supplied, and the contractor shall be barred from doing business with the City during such time.

b. Internal City Procedures

- i. Once a vendor has been debarred, Purchasing will be responsible for notifying Accounts Payable to have the term "DEBARRED" placed in front of the vendors name in the City's financial system.
- ii. The Procurement Office will maintain a list of debarred vendors on the Procurement Office's website and all documentation supporting the debarment actions in its files.
- iii. Prior to creating a new vendor in the City's financial system, using departments shall check the debarment list on the Procurement Office's website.

c. Reinstatement

- i. At the end of the Debarment period or after all conditions of the reinstatement are met, a debarred contractor may send a written request to the Purchasing Agent for reinstatement.
- ii. To be reinstated, the contractor shall be required to submit with his application a list of at least three references with whom the contractor has

satisfactorily conducted business in the past year. The Contractor's request shall not be processed until the required references have been supplied, and the Contractor shall be barred from doing business with the City during such time.

- iii. The Purchasing Agent, in his/her sole discretion may decide if the debarred Contractor may be reinstated and provide the Contractor with a written decision.
- iv. Should the Debarment action involve funds the Contractor owes the City, then the debarred Contractor may apply for reinstatement only after payment in full of the debt owed to the City.

V-VIII CITY CREDIT CARD

I. INTRODUCTION

This policy sets forth procedures to be followed by the City to utilize the City credit card.

II. POLICY

It is the City of Petersburg's policy to issue purchasing credit cards to City employees in order to facilitate the purchase of certain goods and services. In order to safeguard against unauthorized purchases, these procedures must be followed for the issuance of the credit cards, monitoring their activity and use.

III. RESPONSIBILITY FOR CREDIT CARD PROGRAM

a. Director of Finance is responsible for:

- i. Issuing the procedures for use of credit cards; and
- ii. Overseeing the administration of the credit card.

IV. NEW PURCHASE CARD PROGRAM

Effective July 1, 2015 the City has implemented a new P-Card Program. Please see Administrative Regulations 4.1.

V-IX RATIFICATION OF UNAUTHORIZED COMMITMENTS

I. INTRODUCTION

This policy sets forth procedures to be followed by the City to ratify unauthorized commitments.

II. DEFINITIONS

- a. **Ratification** – refers to the process for legitimizing an unauthorized commitment by an official with authority to make that commitment. The verb “ratify” also has this meaning.
- b. **Unauthorized commitment** – means an agreement that is not binding on the City solely because the City representative who has made the agreement lacked the authority to enter into the agreement on behalf of the City. An unauthorized commitment by be cured by ratification.
- c. **Unauthorized purchase** – means a purchase order or contract that is made (i) contrary to the procurement laws or (ii) without available funds. An “unauthorized purchase” cannot be typically cured by ratification. .

III. BACKGROUND

City Code *Section 2-357* prohibits officials and employees from purchasing or contracting for any goods, services, insurance or construction subject to the procurement laws other than by and through the City Manager or the Purchasing Agent. The approval of the Purchasing Agent is required for all such contracts with a value in excess of \$10,000.00.

City Code *Section 2-357* also provides that the City shall not be bound by any purchase order or contract made (i) contract to the procurement laws or (ii) when sufficient funds are not available.

IV. POLICY

- a. Funds are available and were available for the unauthorized commitment at the time that the unauthorized commitment was made.
- b. The unauthorized commitment would have been made in compliance with applicable procurement laws and regulations if made by the appropriate ratifying official or officials.
- c. The appropriate ratifying official or officials approve the unauthorized commitment. The ratifying official or officials should only approve the unauthorized commitment if all of the following apply:

- i. The ratifying official or officials have determined that both:
 - 1. Funds are available and
 - 2. All other applicable procurement laws and regulations have been complied with.
- d. Goods or services have been provided to and accepted by the City.
- e. The ratifying official or officials have determined the price agreed to in the unauthorized commitment to be fair and reasonable. Such determination shall be based upon Fair Market Analysis for similar products or services provided under existing contract vehicles, currently existing bid or proposal prices, or publicly available catalogs or price lists.

V. PROCEDURES

a. Ratifying Officials

- i. For unauthorized commitments with a value up to and including \$9,999.99 the Purchasing Agent or other department head of the agency which made the purchase is the ratifying official.
- ii. For unauthorized commitments with a value greater than \$10,000.00 up to and including \$199,999.99, the Purchasing Agent is the ratifying official.
- iii. For unauthorized commitments with a value greater than \$200,000.00 both the Purchasing Agent and the City Manager or designee must approve the ratification.
- iv. Ratification officials shall evaluate the ratification circumstances to determine whether it is appropriate to request that a manual check be issued by the Department of Finance.
- v. By July 15th of each fiscal year, the director or other head of the department or agency which made the purchase shall furnish the Purchasing Agent with a report on all ratification actions by that the department or agency for the preceding fiscal year. The report shall include the following data:
 - 1. Brief description of service or item
 - 2. Invoice amount (including any applicable finance charges)
 - 3. Invoice number
 - 4. Invoice date
 - 5. Contractor name
 - 6. Contractor address

7. Name of person responsible for the unauthorized commitment
 8. Disciplinary action taken
 9. Controls instituted
 10. Payment date
- vi. By August 30th of each fiscal year, the Purchasing Agent shall furnish the City Manager with a report on all ratification actions for the preceding fiscal year. Such report shall contain substantially the same information as required of the department and agency.

VI. CONSEQUENCES

- a. The department or agency in which an individual made an unauthorized commitment shall pay any finance charges (i.e. interest and other penalties) for late payments assessed.
- b. Any officer or employee of a department or agency responsible for an unauthorized commitment shall furnish the ratifying official with a detailed written explanation of his or her actions with regard to the unauthorized commitment.
- c. In accordance with section of the Personnel Rules for employees, a department or agency head has the following options for disciplining an employee in that department or agency for making an unauthorized commitment:
 - i. Written reprimand
 - ii. Suspension
 - iii. Reduction in pay
 - iv. Disciplinary demotion
 - v. Dismissal
- d. Knowingly authorizing or making payments when funding is not available "shall be illegal and every official who shall knowingly authorize or make such payment or knowingly take part therein and every person who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the City for the full amount so paid or received". Therefore, an employee may be personally liable to the City for making an unauthorized commitment and the contractor may be liable for the amount of any payment received.
- e. For any officer or employee who makes an unauthorized commitment that must be ratified, the purchasing and budgetary authority of that officer or employee may be reduced or eliminated. Such determination shall be made in writing to the appointing authority by the Purchasing Agent in coordination with the Director of Finance and through the City Manager or designee.

V-X APPEALS AND REMEDIES FOR PROTESTS

a. INTRODUCTION

This policy sets forth procedures to be followed by the City appeals and remedies for protests *Subdivision VI §2-251- §2-460*.

Section 2-451 – Ineligibility of Bidder, Offeror or Contractor

- (a) Any bidder, offeror or contractor refused permission to participate or disqualified from participating in public contracts shall be notified in writing. Such notice shall state the reasons for the action taken. This decision shall be final unless the bidder, offeror or contractor appeals the decision as provided in section 2-458 for administrative appeals or, in the alternative, by instituting legal action as provided in section 2-459.
- (b) If, upon appeal, it is determined that the action taken was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution or any applicable state law or regulation, then the sole relief shall be restoration of eligibility.

Section 2-452 – Appeal of denial of withdrawal of bid

- (a) A decision denying withdrawal of a bid under section 2-407 on withdrawal of bid due to error shall be final and conclusive unless the bidder appeals the decision as provided in section 2-458 for administrative appeals or, in the alternative, by instituting legal action as provided in section 2-459.
- (b) If no bid bond was posted, a bidder refused withdrawal of a bid under section 2-407, prior to appealing, shall deliver to the Purchasing Agent a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next lowest bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- (c) If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution, any applicable state law or regulation or the terms and conditions of the invitation for bids, the sole relief shall be withdrawal of the bid.

Section 2-453 – Determination of Non-Responsibility

(a) Following public opening and announcement of bids received on an invitation for bids, the city shall evaluate the bids in accordance with section 2-408. At the same time, the city shall determine whether the apparent low bidder is responsible. If the city so determines, it may proceed with an award in accordance with section 2-409. If the city determines that the apparent low bidder is not responsible, it shall proceed as follows:

(1) Prior to the issuance of a written determination of nonresponsibility, the city shall:

- a. Notify the apparent low bidder in writing of the results of the evaluation;
- b. Disclose the factual support for the determination; and
- c. Allow the apparent low bidder an opportunity to inspect any documents which relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

(2) Within ten business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The city shall issue its written determination of nonresponsibility based on all information in the possession of the city, including any rebuttal information, within five business days of the date the city received such rebuttal information. At the same time, the city shall notify the bidder in writing of its determination.

(3) Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision as provided in section 2-458 for administrative appeals or, in the alternative, by instituting legal action as provided in section 2-459.

This subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

(b) If, upon appeal, it is determined that the decision of the city was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution, any applicable state law or regulation or the terms and conditions of the Invitation for Bids and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or a directed award as provided in section 2-458(a) or both. If it is determined that the decision of the city was not an honest exercise of discretion, but rather was arbitrary or capricious or not in

accordance with the state constitution, any applicable state law or regulation or the terms and conditions of the Invitation for Bids and an award of the contract has been made, the relief shall be as set forth in section 2-454(b).

(c) A bidder contesting a determination that the bidder is not a responsible bidder for a particular contract shall proceed under this section and may not protest the award or proposed award under section 2-454.

(d) Nothing contained in this section shall be construed to require the city, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

Section 2-454 – Protest of award or decision to award

(a) Any bidder or offeror may protest the award or decision to award a contract by submitting such protest in writing to the Purchasing Agent no later than ten calendar days after the award or the announcement of the decision to award, whichever occurs first. The Purchasing Agent shall not be required to consider protests not properly addressed and delivered to the Purchasing Agent within the ten-calendar-day period. Any potential bidder or offeror on a contract negotiated on an only practical source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten calendar days after the notice of such contract. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under section 2-355, the time within which the protest must be submitted shall expire ten calendar days after those records are available for inspection by such bidder or offeror under section 2-355 or at such later time as provided in this section. No protest shall be for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Agent shall issue a decision in writing within ten calendar days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals as provided in section 2-458 for administrative appeals or, in the alternative, by instituting legal action as provided in section 2-459. Nothing in this subsection shall be construed to permit a bidder or offeror to challenge the validity of the terms or conditions of the invitation for bids or request for proposals.

(b) If, prior to an award, it is determined that the decision to award was not an honest exercise of discretion, but rather was arbitrary or capricious or not in

accordance with the state constitution, applicable state law, or the terms and conditions of the invitation for bids, the sole relief shall be a finding to that effect. The Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution, applicable state law, or the terms and conditions of the invitation for bids, the sole relief shall be as provided in subsection (c) of this section. Where the award has been made, but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the city manager may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

- (c) If the procurement review board established by section 2-458(c)(1) determines, after a hearing held following reasonable notice to all bidders or offerors, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of subdivision VII of this division, the procurement review board may enjoin the award of the contract to a particular bidder or offeror.

Section 2-455 – Effect of Appeal upon Contract; stay of award during protest

- a. Pending final determination of a protest or appeal pursuant to this division, the validity of a contract awarded and accepted in good faith in accordance with this division shall not be affected by the fact that a protest or appeal has been filed.

Section 2-456 – Stay of award during protest

- a. An award need not be delayed for the period allowed a bidder or offeror to protest, but if a timely protest is filed as provided in section 2-454 or a timely legal action is filed as provided in section 2-459, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

Section 2-457 – Contractual Disputes

- (a) Contractual claims, whether for money or other relief, shall be submitted in writing to the Purchasing Agent no later than 60 calendar days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing in this section shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- (b) A procedure for consideration of contractual claims shall be included in each contract. Such procedure, which may be incorporated into the contract by reference, shall establish a time limit for a final decision in writing by the Purchasing Agent.
- (c) A contractor may not invoke administrative procedures as provided in section 2-458 or institute legal action as provided in section 2-459 prior to receipt of the decision on the claim, unless the Purchasing Agent fails to render such decision within the time specified in the contract.
- (d) The decision of the Purchasing Agent shall be final and conclusive unless the contractor appeals within 30 calendar days of the date of the final decision on the claim by the Purchasing Agent as provided in section 2-458 for administrative appeals or, in the alternative, by instituting legal action as provided in section 2-459.
- (e) Nothing in this section shall be construed to authorize or permit any contractor pursuing, by any available procedure, an appeal of a contractual claim or dispute to cease performance of a contract while such claim or dispute is pending.

Section 2-458- Administrative appeals procedure

- (a) An administrative appeals procedure is hereby established for hearing protests of a decision to award or an award, appeals from refusals to allow withdrawal of bids, appeals from disqualifications and determinations of nonresponsibility, appeals from debarments or suspensions, and appeals from decisions on disputes arising during the performance of a contract, or any of these.

(b) Procedures for the initial administrative appeal shall be as follows:

- (1) Any act or decision of the city listed in subsection (a) of this section may be appealed or protested by writing to the Purchasing Agent within ten calendar days of the act or decision at issue. The writing must indicate the basis for the protest and the relief sought.
- (2) The Purchasing Agent must send a written response to the appeal or protest within ten calendar days of the Purchasing Agent's receipt of the appeal or protest.
- (3) If the decision of the Purchasing Agent is not satisfactory to the offeror, bidder or contractor, the offeror, bidder or contractor has ten calendar days from the receipt of the Purchasing Agent's decision to request, in writing, a hearing before the procurement review board. Such letter of request shall be addressed and delivered to the office of the Purchasing Agent.

(c) Procedures for hearings shall be as follows:

- (1) A procurement review board shall be established, to be comprised of three disinterested individuals... The members of the procurement review board shall not be employees of the city.
- (2) From the receipt of the letter requesting a hearing, the office of the Purchasing Agent has ten calendar days to inform the offeror, bidder or contractor of the date, time and location of the hearing. Notice of the hearing must be sent at least ten calendar days prior to the hearing date.
- (3) At the hearing before the procurement review board, there shall be an opportunity for both the offeror, bidder or contractor and the city to present pertinent information.
- (4) The procurement review board shall issue a written decision containing findings of fact. The findings of fact shall be final and conclusive and shall not be set aside unless they are:
 - a. Fraudulent, arbitrary or capricious;
 - b. So grossly erroneous as to imply bad faith; or
 - c. For denial of prequalification of a potential construction bidder; such findings were not based upon the criteria for denial of prequalification set forth in section 2-400(q). No determination on an issue of law shall be final if appropriate legal action pursuant to section 2-459 is instituted in a timely manner.

(d) Any party to the administrative appeals procedure, including the city, shall be entitled to institute judicial review if such action is brought within 30

calendar days of receipt of the written decision of the procurement review board.

Section 2-459- Legal Actions

- (a) A bidder or offeror, actual or prospective, who is refused permission or disqualified from participating in bidding or competitive negotiations or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the circuit court of the city challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution, any applicable state law or regulation, or the terms or conditions of the invitation for bids or request for proposals or, for denial of prequalification of a potential construction bidder, that the decision to deny prequalification was not based upon the criteria for denial of prequalification set forth in section 2-400(q). If the apparent low bidder, having been previously determined by the city to be not responsible, is found by the court to be a responsible bidder, the court may direct the city to award the contract, forthwith, to such bidder in accordance with the requirements of this section and the invitation for bids. Section 2-454(b) shall apply to any such award directed by the court.
- (b) A bidder denied withdrawal of a bid under section 2-407 may bring an action in the circuit court of the city challenging that decision, which shall be reversed only if the bidder establishes that the decision of the city was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the state constitution, any applicable state law or regulation, or the terms and conditions of the invitation for bids.
- (c) A bidder, offeror or contractor may bring an action in the circuit court of the city challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not an honest exercise of discretion, but rather is arbitrary, capricious or not in accordance with the state constitution, applicable state law or regulation, or the terms and conditions of the invitation for bids or request for proposals.
- (d) If injunctive relief is granted, the court, upon request of the city, shall require the posting of reasonable security to protect the city.

- (e) A contractor may bring an action involving a contract dispute with the city in the circuit court of the city.
- (f) A bidder, offeror or contractor need not utilize administrative procedures as provided in section 2-458, but if those procedures are invoked by the bidder, offeror or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the city council adopts a resolution providing otherwise.
- (g) Nothing in this section shall be construed to prevent the city from instituting legal action against a contractor.

Section 2-460- Alternate dispute resolution

- a. The city may enter into agreements to submit disputes arising from contracts entered into pursuant to this division to arbitration and to utilize mediation and other alternative dispute resolution procedures; however, such procedures entered into by the city shall be nonbinding.

VI PETERSBURG AREA TRANSIT PROCUREMENT

I. INTRODUCTION

This policy sets forth procedures to be followed by the City when purchasing for Petersburg Area Transit.

II. POLICY

It is the City of Petersburg's Procurement Office responsibility purchase on behalf of the Petersburg Area Transit. The City of Petersburg's Procurement Office has adopted FTA *Circular 4220.1F* for all Petersburg Area Transit Purchasing functions.

III. RESPONSIBILITY FOR PAT PROCUREMENT

a. Under the direction of the Director of Petersburg Area Transit, PAT's Deputy Director is responsible for:

- i. Notifying the Procurement Office of any Purchases in excess of their delegated authority. PAT Deputy Director and staff shall ensure the Procurement Office receives the appropriate guidance regarding FTA *Circular 4220.1F* attachments that directly relates the procurements as identified in this section.

IV. PRICE ANALYSIS AND COST ESTIMATE

A price analysis and cost estimate must be performed in connection with every procurement action, including contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding an individual procurement, but as a starting point, PAT must make independent estimates before receiving bids or proposals.

PAT and the Procurement Office must complete the Independent Cost Estimate (I.C.E.) form.

a. Price Analysis

A price analysis will be the usual procedure followed in a competitive situation and in situations where items are being procured which are sold in the commercial marketplace to the general public. A price analysis is an evaluation of the offeror's price relative to the prices being offered by other vendors and being paid by the

general public for the same or similar items. The essential factors which must be present in order to make a price analysis are:

1. The product must be a commercial product (i.e., one for which there is a basis of comparison in the commercial marketplace). Price analysis would not be suitable, for example, for research and development items, or for one-of-a-kind items for which there is no basis of comparison.
2. It is not necessary that competing products be exactly identical to the product being offered, but you must be able to compare the products' capabilities and their respective price differences in light of those varying capabilities. By such comparisons one is able to make value judgments that a particular product's performance capabilities warrant a higher or lower price than a competing product.

b. Cost Estimate

A cost estimate will be required whenever a price analysis cannot be performed. A cost estimate entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost proposal. A cost analysis is conducted to perform an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract "should cost", assuming reasonable economy and efficiency. A cost estimate will be appropriate in the following situations:

1. The product or service being offered is not susceptible to being evaluated against other commercially available items of similar products or services. Examples would include procurement for professional services where no competing price proposals are submitted, as in procurement for architectural-engineering services where only one cost proposal is solicited from the highest ranking firm, or sole-source procurement for other types of services.
2. When change orders are issued to contracts requiring the contractor to do work whose cost can only be evaluated by examining the various cost elements, such as labor, materials, travel, etc.

V. **VENDOR PREFERENCE**

When purchasing services using Federal Transit Administration (FTA) funds, PAT is not permitted to invoke a resident (Virginia) vendor preference.

VI. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327). The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) using federal funds.

PAT is required to verify that in federally funded procurements that excluded or disqualified parties do not participate or are awarded a contract or subcontract. PAT will do this by (a) Checking the Official U.S. Government System of Award Management (SAM) (b) Checking the Virginia Department of General Services Administration Debarment list (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract and printing the verification document and filing in the procurement folder.

VII. INFORMAL SOLICITATION POLICY

I. INTRODUCTION

This policy sets forth small purchase procedures for goods and services §2-391 of the *Code of Petersburg* and as stipulated and section II-I.

II. DEFINITIONS

Informal Solicitation—purchase of goods and services, other than professional services and non-transportation related construction where the estimated sum of an individual purchase or the estimated aggregate or sum of all phases is less than \$10,000.

The definition of “cost-effectiveness” as used herein shall not only include consideration of sale or purchase cost but other factors such as quality and availability of service, product, warranty, product durability, experience and other factors reflecting the capabilities of vendors doing business with the City. The specific cost-effective definition will be documented in each small purchase-informal solicitation criteria completed by the authorized City representative.

III. PROCEDURES

- a. **Purchases of \$9,999.99 or less** – delegated to using departments through the use of direct payment invoicing (see Delegated Purchasing Authority) unless the vendor requires a formal purchase order.
- b. **Purchases over \$10,000 but less than \$49,999.99**– competition must be sought from a minimum of two valid sources. Using departments/agencies must forward the written documentation of quotes along the purchase requisition to the Procurement Office. Refer to Informal Solicitation form which includes price, vendor name, diversity designation, telephone number, payment terms, delivery date, freight/shipping costs, vendor contact and date of quotation. Award shall be made to the lowest responsive bidder.
- c. **Purchase of \$50,000 but less than \$199,999.99** - competition must be sought from a minimum of three valid sources. Quotations shall be document as stated in *III.B*. Should it be determined that it would be more appropriate to use an Informal Request for Proposal process, then the Procurement staff may use the process outlined below *in Section IV*.

PAT staff in coordination with the Procurement Office will ensure all applicable FTA clauses for the procurement transaction.

Procurement staff will issue a written solicitation to obtain quotes for goods and services in which an award is made to the lowest responsive and responsible vendor submitting a quote based solely on the response to the specifications, acknowledgement of FTA Clauses form, terms and conditions set forth in the solicitations. Quotes are opened and evaluated upon receipt. All responses must be received at the designated location by the date and hour stated in the solicitation. Written quotations shall be documented as stated in Section II-I of this manual. The PAT staff shall complete the I.C.E. form.

IV. Informal Request for Proposal – PAT staff shall complete the I.C.E. form and forward to the Procurement Office. PAT staff in coordination with the Procurement Office will ensure all applicable FTA clauses for the procurement transaction. Procurement staff, with the assistance of the end user, will develop an Informal Request for Proposal that should include the following:

1. Purpose statement
2. Detailed scope of work or specifications.
3. Time frames in which the work is to be completed or goods are to be delivered.
4. Identification of any assistance or information to be furnished by the City.

5. Special information for preparation and submission of the proposal.
6. Suggested criteria that will be used in evaluating the proposal.
7. An award clause may simply state that the City shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror.

Proposals may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and hour stated in the solicitation. In lieu of an evaluation committee, the Procurement staff and the end user shall evaluate and rank the proposals. Upon completion of the evaluation, negotiations shall be conducted as necessary.

VIII. COMPETITIVE SEALED BIDDING

1. INTRODUCTION

This policy sets forth procedures for procuring goods and services through competitive sealed bidding which the estimated sum of an individual purchase or the estimated aggregate or sum of all phases reaches or exceeds \$200,000 §2-395 - §2-2-420 of the Code of Petersburg as stipulated and *Section 13-11*.

2. DEFINITIONS

- a. **Competitive Sealed Bidding** – the preferred method for procurement of goods and services in which award is made to the lowest responsive and responsible bidder based solely on the response to the specifications, terms and conditions set forth in the Invitation for Bid.
- b. **Invitations for Bid (IFB)** – a formal solicitation containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement.
- c. **Responsive Bidder** – a person who has submitted a bid that conforms in all material respects to the Invitation for Bid.
- d. **Responsible Bidder** – a person who has the capability in all respects to fully perform the contract requirements and the moral and business integrity and reliability that will assure good faith performance.

3. POLICY

All purchases shall be made in compliance with *Chapter 43, title 2.2- 4303 of the Code of Virginia entitled Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Purchasing Manual and Procedures, *FTA Circular 4420.1F* and any other regulations as applicable.

4. PROCEDURES

- a. PAT staff shall complete the I.C.E. form and forward to the Procurement Office.
- b. PAT staff in coordination with the Procurement Office will ensure all applicable FTA clauses for the procurement transaction.
- c. The Procurement Office begins the process for competitive sealed bidding upon receipt of an approved requisition **(the requisition must be approved by the department director and/or agency head. Procurement staff will verify funds prior to issuance of solicitation.**
- d. The Procurement Office sends an IFB notification to vendors contained on the bidders list for the requested goods and services. At least ten days prior to the date of opening, a public notice of the IFB is posted on the City's website, bid board and/or may be placed in a newspaper of general circulation.
- e. All bids are held unopened in a locked file until the time and date stated in the IFB. While the bidders list is public information, the names of vendors who have submitted a bid are not to be made public until the actual bid opening time. At that time, all bids are opened publicly, the results read aloud, and recorded on a tally sheet, and then either forwarded to the PAT staff for their evaluation and award recommendation or kept in the Procurement Office and the evaluation and award recommendation is made by the Purchasing Staff. Two people must conduct the public bid opening when vendors are present – one to open and read the bid, and one to record the results. Should no vendors be present, there may be only one staff member involved in tallying the results since there would be no need to read the bid aloud.
- f. Any bid received after the announced time and date for submittal, whether by mail or otherwise, will be rejected. The time of receipt shall be determined by the time clock stamp in the Procurement Office. Bidders are responsible for ensuring that their bids are stamped by the Procurement Office personnel before the deadline indicated on the IFB. Late bids received will be so noted in the IFB file. Late bids received by

mail or courier will be time stamped and returned unopened with a letter to the vendor indicating that it was received late and a copy of the letter and envelope placed in the IFB file. Late bids that are hand delivered by a vendor will be time stamped and the envelope copied. The envelope will then be given back to the vendor and the copy placed in the IFB file.

- g. Bids are evaluated based upon the requirements set forth in the IFB to include the acknowledgment of FTA clauses form and award is made to the lowest responsive and responsible bidder. Procurement staff shall include in the evaluation the Procurement History Form and the Proposer Responsiveness and Responsibility Checklist Form.
- h. Bidders are afforded the opportunity, upon request, to inspect bid records within a reasonable time after the opening of all bids but prior to the award.
- i. The general public will be afforded the right to inspect bid records only after award.
- j. The file of canceled IFBs is not open to inspection by bidders or the public.

IX. COMPETITIVE NEGOTIATION

1. INTRODUCTION

This policy sets forth procedures for procuring professional services and selected goods and non-professional services through competitive negotiation when the estimated sum of an individual purchase or the estimated aggregate or sum of all phases reaches or exceeds \$200,000 *§2-421- §2-422 of the Code of Petersburg and section 13-12.*

2. DEFINITIONS

- a. **Competitive Negotiation** – a method of contractor selection utilizing a Request for Proposal (RFP)
- b. **Request for Proposal (RFP)** – a formal document indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.
- c. **Offeror** – any person from whom a proposal has been received.

- d. **Evaluation Committee** – persons selected to participate in the competitive negotiation process for the purpose of recommending award of a contract for a project or service.
- e. **Professional services** – work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. (Virginia Public Procurement Act {VPPA} 2.2-4301).
- f. **Non-professional services** – any services not specifically identified as professional services in the definition of professional services. (VPPA 2.2-4301).

3. POLICY

All purchases shall be made in compliance with *Chapter 43, title 2.2 -4303 of the Code of Virginia entitled Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Purchasing Manual and Procedures, *FTA Circular 4420.1 F* and any other regulations as applicable.

4. PROCEDURES

- a. **PAT STAFF** –submits a purchase requisition. The information outlined below shall be included in the requisition by the PAT staff. This information will form the basis of the RFP that is sent to prospective offeror(s):
 - I. Complete the I.C.E. form and forward to the Procurement Office.
 - II. Coordinate and then forward to the Procurement Office all applicable FTA Clauses for procurement transactions.
 - III. Purpose statement.
 - IV. Detailed scope of work or specifications.
 - V. Time frames in which the work should be completed or goods are to be delivered.
 - VI. Identify any assistance or information to be furnished by the City.

- VII. Special instructions for preparation and submission of the proposal.
- VIII. Suggested criteria that will be used in evaluating the proposal to include DBE requirements and acknowledgement of FTA clauses.
- IX. Suggested evaluation committee members (Evaluation committee members, names, titles, departments and email addresses must be submitted with the requisition). The committee members will be reviewed by the Purchasing Agent prior to the receipt of proposals.

b. **Procurement Office**

- i. The Procurement Office begins the process for competitive negotiations upon receipt of an approved requisition **(the requisition must be approved by the department director and/or agency head. Procurement staff will verify funds prior to issuance of solicitation.**
- ii. The evaluation criteria to be listed within the RFP must be carefully developed. The criteria should be looked upon as standards which measure how well an offeror's approach meets desired performance requirements and which permit an evaluation of the differences between desired performance characteristics and what the offeror proposes to do. Criteria are normally divided into several categories covering the offeror's technical capability and, for non-professional services only, DBE requirements, the competitiveness and reasonableness of the cost of services. Examples of evaluation criteria are listed below:
 - 1. Scope of work the offeror will provide. Offeror(s) must be instructed that a mere repetition of task taken from the scope of work will not be considered responsive to the RFP. The offeror must show an understanding of the significance of each individual task.
 - 2. Clearly demonstrated understanding of the project and completeness and reasonableness of the offeror's plan to provide the required services.
 - 3. General comments concerning the particular way in which the offeror would approach the assignment.

4. Provide recommended hours for each item in Scope of Services, and total hours recommended for the entire project (for non-professional services only).
 5. Coordinate with PAT staff on all applicable FTA Clauses for procurement transactions.
 6. Resumes of key personnel who would be assigned to the project.
 7. Substantiated representation regarding the offeror's technical capabilities and professional competence to accomplish the required work.
 8. A review of the depth and variety of staff disciplines available within the company or corporate structure.
 9. Provide present known workload in relation to available man-hours.
 10. Estimate time of contract completion.
 11. Substantial successful experience in performing similar projects.
 12. DBE participation is not mandatory but the offeror will be required to make a good faith effort to use DBE subcontractors. This good faith effort must be documented as part of the contractor's proposal. If a portion of the services is to be subcontracted additional to DBE additional information should be requested.
 13. Estimated cost of services (for non-professional services only)
- iii. The Procurement Office, in conjunction with the requestor, reviews and makes necessary changes to the RFP prior to the issuance. At this time, if not already established and approved, an evaluation committee, typically comprised of representatives from the PAT staff and the Procurement Office, shall be developed. Membership of the committee should include a diverse group of employees whenever possible.
 - iv. The Procurement Office sends a RFP notification to vendors contained on the City's bidders list and any suggested vendors from the agency, for the requested professional services and selected goods and non-professional services. At least ten days prior to the date set for receipt of proposals, a public notice of the RFP is posted on the City's website, bid board, Commonwealth of Virginia (eVA) electronic procurement portal and/or may be placed in a newspaper of general circulation in the area in which the contract is to be performed.

- v. The Procurement Office receives all proposals up to and until the time stated on the Request for Proposal. Offerors are responsible for ensuring that their proposal is stamped by the Procurement Office personnel before the deadline indicated. Late proposals received will be time stamped and returned unopened with a letter to the vendor indicating that it was received late and a copy of the letter and the envelope placed in the RFP file. Late proposals that are hand delivered by a vendor will be time stamped and the envelope copied. The envelope will then be given back to the vendor and the copy placed in the RFP file.

- vi. Each member of the evaluation committee independently evaluates the proposals based on the criteria listed in the RFP and completes individual evaluation sheets. Each member of the evaluation committee shall include comments that support their assigned score. The Procurement Office will develop a composite matrix from the evaluation sheets to determine the ranking of all Offerors.

- vii. For professional services, *Conditions for use*. Where the cost of professional services is not expected to exceed \$80,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services may be procured by direct negotiation with a contractor deemed by the PAT staff to be qualified. Where the cost of professional services is expected to exceed \$80,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services shall be procured by competitive negotiation., the City shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative nonbinding estimates of total project costs, including, but not limited to, life cycle costing, and where appropriate, nonbinding estimates of price for services. At the conclusion of discussion, on the basis of evaluation factors published in the RFP and all information developed in the selection process to this point, the City shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first (or highest). If the contract is satisfactory and advantageous to the City then the price can be negotiated until it is considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally

terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Purchasing Agent or his designee determine in writing at his sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

- viii. For non-professional services, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposals, including price if so stated in the RFP. Negotiations shall then be conducted with each offeror so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the City shall select the offeror, which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should the Purchasing Agent or his designee determine in writing at his sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- ix. Procurement staff compiles completed documentation to support the award recommendation. Documentation shall consist of all proposals submitted and the following:
 1. Determination for use of competitive negotiations (for non-professional services only).
 2. Completed I.C.E. form
 3. Coordinate with PAT staff on all applicable FTA Clauses for procurement transactions.
 4. Pre-award information to include correspondence, notes and draft solicitation.
 5. Bidding list.
 6. Newspaper advertisement and notice to offerors.
 7. Final copy of the RFP including addenda.
 8. Evaluation Committee approval.

9. Weighted criteria and consensus documentation.
 10. Offerors/"No proposal" submissions.
 11. Acknowledgement of FTA Clauses for this procurement transaction.
 12. Composite evaluation matrix (tally of scores).
 13. Correspondence to short listed firms.
 14. Negotiation planning/topics.
 15. Negotiation results.
 16. Committee concurrence of award recommendation.
 17. Intent to Award notification
 18. Procurement History Form
 19. Proposer Responsiveness and Responsibility Checklist Form
- x. The general public will be afforded the right to inspect proposal records only after award.
 - xi. Offerors are afforded the opportunity, upon request, to inspect proposal records within a reasonable time after the award notification.
 - xii. The file of canceled RFP's is not open to inspection by offerors or the public.

X. SOLE SOURCE PURCHASES

1. INTRODUCTION

This policy sets forth procedures for making sole source purchases. It is the intent of the City of Petersburg that contracts are awarded on a competitive basis; therefore, sole source purchases must be limited to those instances where only one source is practicably available §2-391 – §2-392 of the Code of Petersburg and section 13-14.

2. DEFINITIONS

- a. **Sole Source** – only one source practicably available for the goods or services required. Competition is not available in a sole source situation.
- b. **Practicable** – capable of being put into practice or of being done or accomplished; feasible.

3. POLICY

Sole source purchases shall be made in compliance with *§2.2-4303E of the Virginia Public Procurement Act*, the Petersburg City Code, the City of Petersburg Purchasing Manual and Procedures, *FTA Circular 4420.1 F*, Master Agreement and any other regulations as applicable.

4. PROCEDURES

a. PAT STAFF

- i. Complete a Request for Sole Source form providing appropriate justification to substantiate the request.
- ii. Complete the I.C.E. form and forward to the Procurement Office.
- iii. Coordinate and then forward to the Procurement Office all applicable FTA Clauses for this procurement transaction.
- iv. Submit a purchase requisition and include the completed Request for Sole Source form with attachments to include a quotation from the vendor and forward to the Procurement Office.

b. Procurement Staff

- i. Reviews and determines validity of the sole source request.
- ii. Reviews the completed I.C.E. form for accuracy.
- iii. Verifies the applicable FTA clauses are included.
- iv. Obtains any additional written quotes and further information as applicable, i.e., insurance, bonding, contractor licensing, references.
- v. With the assistance of the PAT staff conducts negotiations with vendor and includes documentation of the negotiation in the sole source file.

- vi. Carefully researches the product or service and determines the price is fair and reasonable. The written completed I.C.E. form may be based on price analysis or value analysis.
- vii. Obtains written acknowledgement of FTA Clauses for this procurement transaction.
- viii. Obtains approval and written determination of sole source from the Purchasing Agent or designee and publicly posts a written notice.

XI. EMERGENCY PURCHASES

1. INTRODUCTION

This policy sets forth provision governing use of emergency purchases and seeks to provide uniformity in the utilization of emergency purchases thereby keeping PAT staff in conformity with City regulations, yet making provisions for situations of emergency. Therefore, every effort must be made to keep them to an absolute minimum. PAT staff must not make emergency purchases without first contacting the Procurement Office for approval except as permitted in *Section IV.C*. In any event, purchases must be in compliance with *Section II*, which defines emergency purchases. An Emergency Justification Form must be submitted with each requisition.

2. DEFINITIONS

Emergency – when there is an actual or potential disruption related to an essential service or other circumstances when supplies or services are needed for immediate use.

- a. Emergencies that are so significant as to cause an immediate threat to life, health, or property.
- b. Other emergencies, called operational emergencies, affect services but do not threaten life, health or property.

3. POLICY

Emergency purchases shall be made in compliance with *§2.2-4303F of the Virginia Public Procurement Act*, the *Petersburg City Code §2-393*, the City of Petersburg Purchasing Manual and Procedures, *FTA Circular 4420.1 F* and any other regulations as applicable.

4. PROCEDURE

- a. Department directors, agency heads and their designees are responsible for the proper utilization of this emergency purchase policy and procedure. This responsibility includes, but is not limited to, proper documentation of emergency situations and providing accurate and sufficient information so as to comply with the provisions of this procedure. Requisitions received in the Procurement Office without the required documentation will be returned to the PAT for the appropriate information detailing the specific circumstances that necessitated the emergency purchase.
- b. **Emergency Purchase During Office Hours** – Department directors, agency heads or their designee must contact the Procurement Office at the time the emergency situation is known and describe the emergency situation and approximate cost. If it

is determined that an emergency exists, the Procurement Office will issue an emergency purchase order number and either make the purchase itself or authorize the department/agency to purchase the needed materials or services. As time permits, competition from other contractors should be solicited to take advantage of any available savings. The Procurement Office may perform the search for competition or direct the PAT staff to do so. Such competition, including contractor name, completed I.C.E. form, prices, FTA Clauses and date and contact person must be noted on the requisition. Also include any contractors that were contacted who could not quote. In situations when the emergency nature is questionable, the Procurement Office will deny the request and suggest that a requisition be submitted for processing using non-emergency procedures.

- c. **Emergency Purchases After Office Hours** – Operational emergency purchases over \$10,000 must be approved by the Purchasing Agent or designee prior to any commitment with a contractor. Purchases associated with emergencies that threaten life, health, or property is only subject to approval by the Purchasing Agent or designee if the amount of the purchase is \$100,000 or less. After hours, telephone number for the Purchasing Agent is available upon request. The City Manager must approve emergency Purchases exceeding \$100,000.
- d. A follow up Purchase Requisition for Emergency Purchases made during and after office hours must be submitted.
 - i. Prepare purchase requisition and forward to the Procurement Office along with the purchase order number previously assigned (if emergency took place during office hours), the invoice when available, and the required documentation stating the specific emergency nature, which necessitated the purchase, plus provide the routine information submitted on a purchase requisition for a normal order, completed I.C.E. form, and acknowledgement of FTA clauses form. If a purchase was made after office hours, make a notation on the requisition stating this fact along with the name of the authorizing purchasing official.
 - ii. Written documentation shall include but not be limited to:
 - 1. Date of emergency
 - 2. Description of emergency
 - 3. Completed I.C.E. form
 - 4. Prices obtained from other contractors: contractor name, price, and date and contact person.
 - 5. Acknowledgement of FTA Clauses form
 - 6. Any contractors that were contacted who did not quote a price.

XII. FTA CLAUSES

1. INTRODUCTION

The City of Petersburg Procurement Office and PAT is responsible for evaluating these requirements for relevance and applicability for procurement processes.

2. POLICY

PAT is required to include FTA clauses in federally funded procurements

3. PROCEDURE

The current and comprehensive list of federal required and other model contract clauses are below and applicable to PAT procurements and contracts. Use the FTA Clause table (Sample Forms) to determine applicable clauses.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Petersburg requests which would cause City of Petersburg to be in violation of the FTA terms and conditions.

FTA has developed the following incorporation of terms language- The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Petersburg requests which would cause City of Petersburg to be in violation of the FTA terms and conditions.

FEDERAL LOBBYING CERTIFICATION

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of ANY federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with THIS federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient

in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

FEDERAL CHANGES

49 CFR Part 18

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

RECYCLED PRODUCTS

**42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873**

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

CLEAN AIR

**42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18**

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or

liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AND RELATED ACTS**

**31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

TERMINATION

**49 U.S.C. Part 18
FTA Circular 4220.1F**

a. Termination for Convenience (General Provision) The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.

The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City the Contractor will account for the same, and dispose of it in the manner the City directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City shall not limit City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

In the event that City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City shall not limit City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

The City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the City, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and City shall agree on payment for the preservation

and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the City may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the City resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the City in completing the work.

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the City may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the City resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the City in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the City, acts of another Contractor in the performance of a contract with the City, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the City in writing of the causes of delay. If in the judgment of the City, the delay is excusable, the time for completing the work shall be extended. The judgment of the City shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the City.

i. Termination for Convenience or Default (Architect and Engineering) The City may terminate this contract in whole or in part, for the City's convenience or because of the failure of the

Contractor to fulfill the contract obligations. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

The City may terminate this contract in whole or in part, for the City's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the City, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the City may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the City.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

j. Termination for Convenience of Default (Cost-Type Contracts) The City may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the City or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the City, or property supplied to the Contractor by the City. If the termination is for default, the City may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City and the parties shall negotiate the termination settlement to be paid the Contractor.

The City may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the City or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the City, or property supplied to the Contractor by the City. If the termination is for default, the City may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the City, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the City determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the City, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

**49 CFR Part 29
Executive Order 12549**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **City of Petersburg**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the **City of Petersburg- Petersburg Area Transit**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

CIVIL RIGHTS REQUIREMENTS

**29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.**

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance

Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

PRIVACY ACT

5 U.S.C. 552

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system.

BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18 FTA Circular 4220.1F

- (1) Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative, the City Attorney of the City of Petersburg. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City Attorney. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Attorney shall be binding upon the Contractor and the Contractor shall abide by the decision.
- (2) Unless otherwise directed by the City of Petersburg, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- (3) Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- (4) Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Petersburg and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Petersburg is located.
- (5) The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 10%. A separate contract goal has not been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as **City of Petersburg-Petersburg Area Transit** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321)

shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** – The City of Petersburg shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the City of Petersburg] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City of Petersburg for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job

site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is

approved.

(iii) **Equal employment opportunity** - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

DRUG AND ALCOHOL TESTING

b. 49 U.S.C. §5331
49 CFR Parts 653 and 654

The contractor agrees to participate in Petersburg Area Transit Drug and Alcohol program established in compliance with 49 CFR 653 and 654.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The City of Petersburg shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq. 49
CFR Part 41

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in

compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

FLY AMERICA REQUIREMENTS

**49 U.S.C. §40118
41 CFR Part 301-10**

The City of Petersburg dba PAT and/or the Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

BUY AMERICA REQUIREMENTS

**49 U.S.C. 5323(j)
49 CFR Part 661**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

CHARTER BUS REQUIREMENTS

**49 U.S.C. 5323(d)
49 CFR Part 604**

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that City of Petersburg dba PAT is prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

SCHOOL BUS REQUIREMENTS

**49 U.S.C. 5323(F)
49 CFR Part 605**

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, the City of Petersburg dba PAT may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

CARGO PREFERENCE REQUIREMENTS

**46 U.S.C. 1241
46 CFR Part 381**

PAT and/or the contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

BUS TESTING

49 U.S.C. 5318(e)

49 CFR Part 665

The Contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS
The undersigned [Contractor/Manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Date: _____

Signature: _____

Company Name: _____

Title: _____

PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS

**49 U.S.C. 5323
49 CFR Part 663**

The City of Petersburg dba PAT and/or the Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following

certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT

(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Date: _____

Signature: _____

Company Name: _____

Title: _____

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____

Signature: _____

Company Name: _____

Title: _____

PATENT AND RIGHTS IN DATA

37 CFR Part 401 49 CFR Parts 18 and 19

The FTA patent clause is substantially similar to the text of 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard, is proposed with the understanding that this standard could be modified to FTA's needs.

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it

is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause , provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal

assistance provided by FTA.

B. Patent Rights - This following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

49 U.S.C. § 5310, § 5311, and § 5333
29 CFR Part 215

The City of Petersburg dba PAT and/or the Contractor agrees to the comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.

§ 5310(a)(2) for Elderly Individuals and Individuals with Disabilities

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.

§ 5311 in Nonurbanized Areas

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made must contain provisions covering the following, as applicable:

- (1) *Simplified Acquisition Threshold.* Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

- (2) *Termination.* All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.
- (3) *Equal Employment Opportunity.* Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order No. 11246, “Equal Employment Opportunity,” 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935, 3 C.F.R. 1964–1965 Comp., p. 339), as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” (32 Fed. Reg. 14,303) and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (4) *Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148).* When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

- (5) *Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708).* Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (6) *Rights to Inventions Made Under a Contract or Agreement.* If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (7) *Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended.* Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (8) *Debarment and Suspension (Executive Orders 12549 and 12689).* A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at

2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (i) Complies with federal debarment and suspension requirements; and
 - (ii) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.
- (9) *Restrictions on Lobbying (31 U.S.C. § 1352)*. Contractors that apply or bid for an award exceeding \$100,000 must file the certification required by 49 CFR Part 20. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
- (10) *Solid Wastes*. A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

FRAUD, WASTE, ABUSE OR OTHER LEGAL MATTERS NOTIFICATION TO FTA AND U.S. DOT INSPECTOR GENERAL

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel and the FAT Region III Counsel. The Contractor must include a similar notification requirement in its subcontract agreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §180.220 and 1200.220.

(a) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any form for any reason.

(b) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations and requirements.

(c) Additional Notice to U.S. Dot Inspector General. The Contractor must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Council or the FTA Region Counsel, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on the Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31. U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between [Recipient] and FTA, or an agreement involving a principal, officer, employee, agent or Third-Party Contractor of [Recipient]. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal incident, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.

SEAT BELT USAGE

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U.S.C. ¶ 402 (62 Fed. Reg. 19217), the Contractor and its subcontractors shall adopt and promote on-the-job seat belt use policies

and programs for its employees and other personnel that operate company-owned vehicle, company-rented vehicles, or personally operated vehicles.

TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C.A. § 402 note (74 Fed. Reg. 51225); DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and U.S. Dot Special Provision pertaining to Distracted Driving, the Contractor in encourages to comply with the terms of the following Special Provision:

A. Definitions. As used in this Special Provision:

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electronic devise, including for the purpose of a short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b. Safety. The Contractor shall be encouraged to:

(1) Adopt and enforce workplace safety policies to decrease crashed caused by distracted drivers including policies an to ban text messaging while driving-

(a) Contractor-owned or Contractor-rented vehicles or Government-owned, leased or

Rented vehicles, or

(b) Privately-owned vehicles when an official Project related business or when performing any work for or on behalf of the Project: or

(c) Any vehicle, on or off duty, and using an employer supplies electronic device.

(2) Conduct workplace safety initiatives in a manner commensurate with the Contractor's size, such as:

(a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and

(b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(3) Include this Special Provision in its sub-agreements with the subcontractors and also encourage its subcontractors to comply with the terms of this Special Provision and include this Special Provision in any sub-agreement they entered into for the Project.

**PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO
SURVEILLANCE SERVICES OR EQUIPMENT**

In accordance with Public Law 115-232, the Contractor shall not supply telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) shall also not be supplies.

SAMPLE FORMS

Below are a few samples of forms utilized by the City to carry their Purchasing Functions.

- a. Conflict of Interest Form
- b. Sole Source Justification Form
- c. Emergency Purchase Justification Form
- d. Vendor Complaint Form
- e. Vendor Performance Report for Contract Closeout
- f. Vendor Performance Report for Contract Renewal
- g. Construction Change Order Form
- h. Non-Construction Change Order Form
- i. Purchase Requisition
- j. Informal Solicitation Quote Form (new)

Additional forms used for Transit Procurements (only)

- k. FTA Clause Table
- l. Acknowledgement of FTA Clauses Form
- m. Independent Cost Estimate Form
- n. Procurement History Form (new)
- o. Proposer Responsiveness and Responsibility Checklist (new)
- p. Provisions, Certifications, Reports, Forms and Other - Matrix

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**EVALUATION COMMITTEE MEMBER
CONFLICT OF INTEREST &
STATEMENT OF UNDERSTANDING**

The acquisition of goods and services requires that great care be taken to ensure that all individuals involved in the selection process have no personal interest in its outcome. State law and policy requires that each involved individual agree to and execute this statement prior to the issuance of the Request for Proposals.

- A. I certify that I am not a paid officer or director of any firm which is expected to respond to this Request for Proposal. Similarly, no member of my immediate family is a paid officer or director of any firm which is expected to respond to this Request for Proposals.
- B. I certify that neither I, nor any member of my immediate family, do not directly owe money to any employee or officer of any firm which is expected to respond to this Request for Proposals.
- C. I certify that I do not have any funds invested in any firm which is expected to respond to this Request for Proposals. Similarly, neither I, nor a member of my immediate family, own or control an interest in any firm which is expected to respond to this Request for Proposals.
- D. Applicable to City employees, only: I certify that since my employment at the City of Petersburg, neither I, nor any of my immediate family, received lodging, entertainment, transportation, money or anything else of value offered by any employee or officer of any firm which is expected to respond to this Request for Proposals. (This would include tickets to sporting events or shows, meals or lodging, gifts, etc.) During and after the procurement process, I will not accept lodging, transportation, money or anything else of value from any employee or officer of the firm which is expected to or did respond to the Request for Proposals.

Note: Exceptions to D must be approved by the City Manager and could include acceptance of a meal.

- E. I certify that I have not received any compensation from any firm which is expected to respond to this Request for Proposals. No member of my immediate family has received compensation, salary or wages in excess of \$10,000 from any firm which is expected to respond to this Request for Proposals.

Note: If any time, during the selection process, I find that I, or any member of my immediate family, have a personal interest in any firm responding to this Request for Proposals, I will notify Purchasing Agent of this conflict and voluntarily remove myself from the selection process.

- F. During the course of this procurement, I understand that all communication with firms regarding this Request for Proposals must be handled by the Purchasing Office. I agree not to contact firms responding to this Request for Proposals (unless directed to do so by the Purchasing Office), and if any of those firms attempt to contact me directly, I agree to refer the firm to the Purchasing Office.
- G. I agree to abide by all the policies/procedures contained in this document relative to this procurement.

IFB/RFP# _____

Date: _____

Executed: _____
(Signature)

Printed



City of Petersburg

Procurement Office

125 N. Union Street
Petersburg, Virginia 23803

VENDOR COMPLAINT FORM

Vendor's Name: _____ Date Filed: _____
 Vendor's Address: _____ PO No./Date: _____
 City, State, Zip: _____ Contract No.: _____
 Vendor Federal ID No.: _____ Item: _____
 Telephone/E-mail: _____
 Person filing complaint Printed Name & Signature: _____

1. ACTION TAKEN BY AGENCY:

- | | | |
|---|--|---|
| <p><u>VENDOR CONTACT</u></p> <input type="checkbox"/> Agency contacted the Vendor _____
<input type="checkbox"/> Routine Tracer Sent _____
<input type="checkbox"/> Personal Letter Sent _____
<input type="checkbox"/> Vendor Contacted Agency _____
<input type="checkbox"/> Purchasing Office Contacted Vendor _____ | <p><u>DATE(S)</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> | <p><u>VENDOR RESPONSE</u></p> <input type="checkbox"/> No Response Compliance
<input type="checkbox"/> Denied Responsibility
<input type="checkbox"/> Offered Unacceptable Solution
<input type="checkbox"/> Resolved (<i>File for Record</i>)
<input type="checkbox"/> Other (<i>See Attachment</i>) |
|---|--|---|

F R O M	Name of Agency:			Contact Name:	Title:
	Address:			Signature:	
	City:	State:	Zip Code:	Phone Number:	

2. COMPLAINT:

- a. Delivery
- | | | | |
|-------------------------|-----------------------|---------------------------|------------------------|
| Required Delivery Date: | Actual Delivery Date: | Partial Delivery Date(s): | Not Recv'd As of Date: |
| | | | |
- b. Price
- | | |
|-----------------------|----------------|
| Contract / P.O.Price: | Invoice Price: |
| | |
- c. Quality / Specifications: (*Be Specific*) _____

- d. Other: (*Explain*) _____

NOTE: SUBMIT YOUR WRITTEN REPLY BELOW WITHIN TEN (10) CALENDAR DAYS OF RECEIPT OF THIS COMPLAINT. INDICATE YOUR CORRECTIVE ACTION BELOW AND MAIL A COPY TO THE ORIGINATING AGENCY/LOCALITY AND A COPY TO PROCUREMENT OFFICE, 125 N. UNION STREET, PETERSBURG, VA 23803. ATTACH ADDITIONAL SHEETS FOR YOUR RESPONSE IF REQUIRED. FAILURE TO RESPOND MAY RESULT IN REMOVAL.

VENDOR'S RESPONSE: _____

NAME: _____ TITLE: _____ PHONE: _____ DATE: _____

DISTRIBUTION: Mail 2 copies to Vendor; Mail 1 copy to Purchasing Office; Mail 1 copy to Department



City of Petersburg

Procurement Office

125 N. Union Street
Petersburg, Virginia 23803

PREPARATION INSTRUCTIONS FOR VENDOR COMPLAINT FORM

(All fields required to be completed).

1. **Vendor's Name:** The name of the vendor providing the goods/service.
2. **Vendor's Address:** The address of the vendor who provided the Goods or Service.
3. **City, State, Zip:** The City, State, and Zip of the vendor.
4. **Vendor Federal ID No.:** The Federal ID number of the vendor providing the Goods/Service.
5. **Telephone/Email:** The telephone number and email address of the vendor.
6. **Date Filed:** The date this complaint form was prepared.
7. **PO No./Date:** The Purchase Order number and the date the purchase order was prepared.
8. **Item:** The goods/service identified on the above Purchase Order number.
9. **Person filing complaint signature:** The printed name & signature of the person completing the complaint form.
10. **Action taken by agency:**
11. **Vendor Contact:** Indicate the type of contact made with the vendor and the date the contact was made.
12. **Vendor Response:** Mark the type of response received from the vendor.
13. **From:** Enter the name of the Agency, the address including City, State, and Zip. Include also the contact name, title, phone number, and signature of the person completing the complaint form.
14. **Complaint:** The person completing the form marks the appropriate block for the type of complaint being made against the vendor. The following instructions are provided for each option:
15. **Delivery:** Enter the Required Delivery Date of the goods/service. Complete the remaining three blocks as required.
16. **Price:** Enter the contracted price and the actual price charged by the vendor.
17. **Quality/Specifications:** Give specific details explaining the shortfall of the quality of the goods/service received or the specifications not being met.
18. **Other:** Explain in detail any discrepancy encountered with the goods/service received that is not covered in the above options.
19. **Vendor's Response:** This space is reserved for the vendor to provide feedback to the Contract Specialist concerning the complaint against them. The vendor should also provide the name of the person responding to the complaint, their title, phone number, and the date the form the response was prepared.



**CITY OF PETERSBURG
PROCUREMENT OFFICE**
125 N. Union Street
Petersburg, Virginia 23803

RENEWAL MEMO / VENDOR PERFORMANCE REPORT

Today's Date

To: **Project Manager, Title
Department**

From: **Procurement Staff Member Name, Title**

In agreement with the terms and conditions of Contract # Insert Contract Number for Contract Title, this contract is up for **renewal**. If your office desires this contract to be renewed, return this letter, with authorized signature, to the Procurement Office no later than Insert Due Date. The following information concerning this contract is provided:

Current contract value: \$ Insert Contract Value or Pricing Information

Include in your response the total amount this contract should be renewed for.

Attached/Enclosed is a Vendor Evaluation Report, which must be returned to the Procurement Office no later than Insert the Same due Date as above.

From: **Project Manager, Title
Department**

To: **Procurement Staff Member Name, Title**

In regards to Contract # Insert Contract Number, for Contract Title, this office desires to:

- Cancel this contract
- Renew this contract at the current price level.
- Renew this contract for the amount of \$ _____

Sincerely,

(Agency Director)

(Date)

Purchasing Agent Date

City Manager Date

**Signature of this document by the Requesting Department's Director or designee confirms that funding is available in the budget for the above commodity/service.



**CITY OF PETERSBURG
PROCUREMENT OFFICE**
125 N. Union Street
Petersburg, Virginia 23803

VENDOR PERFORMANCE REPORT

Contract Number: Insert Contract Number

Vendor: Insert Vendor Name

Goods/Service: Insert the description of Contract

Period of Evaluation: Insert Contract Term Period

Date _____

Evaluator _____

Rate the Contractor's Performance on the following areas:

1. General quality of goods and/services?
 Excellent Good Satisfactory Fair * Poor *
2. Compliance with specifications?
 Excellent Good Satisfactory Fair * Poor *
3. Contractor's Responsiveness to requests to correct deficiencies?
 Excellent Good Satisfactory Fair * Poor *
4. Delivery or completion within time specified?
 Yes No
5. Cooperated with City officials in arranging and scheduling delivery/service?
 Yes No
6. Is this good or service still required by you?
 Yes No
7. Would you recommend renewal of this contract?
 Yes No
8. Would you recommend award to this firm for similar work in the future?
 Yes No
9. Overall evaluation:
 Excellent Good Satisfactory Fair * Poor *

*Comments/Justification: _____

Please return form to: Insert Procurement Staff Member Name, Procurement Office, 125 N. Union Street, no later than Insert the Due Date.

Name (Print or type) _____

Signature _____

Title _____

Agency _____

Telephone Number _____ Date: _____

PREPARATION INSTRUCTIONS FOR VENDOR PERFORMANCE REPORT

(All fields required to be completed).

1. **Contract Number:** The contract number for the goods/service provided by the Vendor.
2. **Goods/Service:** The Goods or Service that was rendered under the above contract number.
3. **Date:** The date the evaluation report is prepared.
4. **Vendor:** The name of the vendor providing the Goods/Service.
5. **Period of Evaluation:** The time period this contract covered.
6. **Evaluator:** The name of the person performing the evaluation of this contract.
7. **Rate the Contractor's Performance:** Self-explanatory. Responses of "Fair" or "Poor" require comments in the Comments/Justification area.
8. **Comments/Justification:** Annotate any comments you have about the Vendor or the service provided by the Vendor. Also explain any responses of "Fair" or "Poor."
9. **Name:** The name of the person completing the evaluation.
10. **Signature:** The signature of the person completing the evaluation.
11. **Title:** The title of the person completing the evaluation.
12. **Agency:** The name of the agency which received the goods/service.
13. **Telephone Number:** The telephone number of the person completing the evaluation.
14. **Date:** The date the evaluation is signed.



**CITY OF PETERSBURG
PROCUREMENT OFFICE**
125 N. Union Street
Petersburg, Virginia 23803

RENEWAL MEMO / VENDOR PERFORMANCE REPORT (CLOSEOUT)

Today's Date

To: **Project Manager, Title
Department**

From: **Procurement Staff Member Name, Title**

In agreement with the terms and conditions of Contract # Insert Contract Number for Contract Title, this contract is up for closeout. Return this letter, with authorized signature, to the Procurement Office no later than Insert Due Date. The following information concerning this contract is provided:

Current contract value: \$ Insert Contract Value or Pricing Information

Attached/Enclosed is a Vendor Evaluation Report, which must be returned to the Procurement Office no later than Insert the Same Due Date as above.

From: **Project Manager, Title
Department**

To: **Procurement Staff Member Name, Title**

In regards to Contract # Insert Contract Number, for Contract Title, this office desires to:

Closeout this contract (all work has been completed and all invoices have been paid)

Extend this Contract
Extension Period: _____ additional days

Submit Request for Proposal or Invitation for Bid (only if the goods and services are still required)

Sincerely,

(Agency Director)

Purchasing Agent

Date

(Date)

City Manager

Date

**Signature of this document by the Requesting Department's Director or designee confirms that funding is available in the budget for the above commodity/service.

12/06/23



**CITY OF PETERSBURG
PROCUREMENT OFFICE**
125 N. Union Street
Petersburg, Virginia 23803

VENDOR PERFORMANCE REPORT

Contract Number: Insert Contract Number

Vendor: Insert Vendor Name

Goods/Service: Insert the Description of Contract Period of Evaluation: Insert Contract Period Term

Date _____

Evaluator _____

Rate the Contractor's Performance on the following areas:

1. General quality of goods and/services?
 Excellent Good Satisfactory Fair * Poor *
2. Compliance with specifications?
 Excellent Good Satisfactory Fair * Poor *
3. Contractor's Responsiveness to requests to correct deficiencies?
 Excellent Good Satisfactory Fair * Poor *
4. Delivery or completion within time specified?
 Yes No
5. Cooperated with City officials in arranging and scheduling delivery/service?
 Yes No
6. Is this good or service still required by you?
 Yes No
7. Would you recommend renewal of this contract?
 Yes No
8. Would you recommend award to this firm for similar work in the future?
 Yes No
9. Overall evaluation:
 Excellent Good Satisfactory Fair * Poor *

*Comments/Justification: _____

Please return form to: Insert Procurement Staff Member Name, Procurement Office, 125 N. Union Street, no later than Insert the Due Date.

Name (Print or type) _____

Signature _____

Title _____

Agency _____

Telephone Number _____ Date: _____

PREPARATION INSTRUCTIONS FOR VENDOR PERFORMANCE REPORT

(All fields required to be completed).

1. **Contract Number:** The contract number for the goods/service provided by the Vendor.
2. **Goods/Service:** The Goods or Service that was rendered under the above contract number.
3. **Date:** The date the evaluation report is prepared.
4. **Vendor:** The name of the vendor providing the Goods/Service.
5. **Period of Evaluation:** The time period this contract covered.
6. **Evaluator:** The name of the person performing the evaluation of this contract.
7. **Rate the Contractor's Performance:** Self-explanatory. Responses of "Fair" or "Poor" require comments in the Comments/Justification area.
8. **Comments/Justification:** Annotate any comments you have about the Vendor or the service provided by the Vendor. Also explain any responses of "Fair" or "Poor."
9. **Name:** The name of the person completing the evaluation.
10. **Signature:** The signature of the person completing the evaluation.
11. **Title:** The title of the person completing the evaluation.
12. **Agency:** The name of the agency which received the goods/service.
13. **Telephone Number:** The telephone number of the person completing the evaluation.
14. **Date:** The date the evaluation is signed.

**Construction Change Order
City of Petersburg, VA 23803
Division of General Services
Purchasing Office**

Construction Change Order

No _____ Date _____

Project: _____	Contract Delivery Order #: _____
Contract No.: _____	Purchase Order Number: _____
Consultant's Job No.: _____	

To:	_____

You are authorized to make the following changes to subject contract:	

Attachments	

SUMMARY:	
Original Contract Cost	_____
Additions to Date- Amount Change Order No's	\$0.00
Deductions to Date- Amount Change Order No's	\$0.00
Total to Date	\$0.00
Increase this Change Order	_____
New Contract Price	\$0.00
Increase / Decrease Contract Time	_____
Total Calendar / Work Days	_____
New Completion Date	_____

RECOMMENDED BY:
CITY OF PETERSBURG

By: _____
Project Coordinator Date

CONTRACTOR'S APPROVAL:

Firm: _____

By: _____
Signature Date

APPROVED:

_____ Date
Director of Public Works

APPROVED:

_____ Date
Purchasing Agent

APPROVED AND AUTHORIZED:

_____ Date
City Manager

FUNDS CERTIFIED BY FINANCE FOR INCREASE ONLY:
FUNCTION:
 Dist : White - Vendor
 Yellow - Finance
 Pink - Dept.
 Goldenrod - Purchasing

OBJ:



NON-CONSTRUCTION
 CITY OF PETERSBURG
 PETERSBURG, VIRGINIA 23803

DATE:

VENDOR

CHANGE ORDER#
 PURCHASE ORDER #
 CONTRACT #
 DEPARTMENT:

REASON FOR CHANGE ORDER:
 (INCLUDE SUPPORTING DOCUMENTATION)

Agency Representative Approval: _____

ITEM NO.	QTY.	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
1	1			\$0.00	\$0.00

FUNCTION	OBJECT	AMOUNT	TOTAL
		\$0.00	\$0.00
CITY OF PETERSBURG, VIRGINIA			
BUYER:			
(Procurement Office Only)			Date
FUNDS CERTIFIED BY PROCUREMENT: (INCREASE ONLY)			
APPROVED BY:			
Purchasing Agent			Date

INFORMAL SOLICITATION QUOTE FORM

Commodity Description	General description of what is being requested	Quote Submission Deadline	[Date], [Time], Eastern TZ
------------------------------	--	----------------------------------	----------------------------

City of Petersburg: Requestor Contact Information			
Name:	[enter your name and contact info]	Phone:	
Cell Phone:		Email:	

Bidder Instructions:

- To be considered, your quote must be completed and returned by fax, mail or email no later than the bid submission deadline listed above.
- Please provide bid quotes on the following services/item(s). **See attached item specifications.** If bidding a manufacturer name and/or part number other than those listed, you must provide the alternate brand name and part number. If alternate is quoted, descriptive literature shall be provided with your response. Also, indicate any change in container size or standard package from that specified.
- Quotes must include all freight charges for material to be delivered **F.O.B City of Petersburg _Insert Ship To Address_____ , Petersburg, VA 23803**, or other address specified in the request. Do not include local or state taxes in the bid price. Discounts should be deducted from the unit price and net price should be shown in the quote.
- Awards will be on a per-item or an all-or-none basis, whichever is more advantageous to the City of Petersburg. The city reserves the right to decline any and all bids based upon the experience and qualifications of the company.
- The vendor must complete the Vendor Information section below to be considered.

Vendor Information					
Company Name: _____					
Name (type or print): _____	Email: _____				
Address: _____					
City: _____	State: _____	ZIP Code: _____			
Telephone Number: _____	Fax Number: _____				
Minority Designation:	<input type="checkbox"/> Not Applicable	<input type="checkbox"/> African American	<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Pacific Islander American	<input type="checkbox"/> Woman Owned
	<input type="checkbox"/> American Indian	<input type="checkbox"/> Asian American	<input type="checkbox"/> Service Disabled Veteran		
Signature: _____				Date: _____	
Business Designation (check one):	Individual [] Partnership []	Sole Proprietorship [] Corporation []	Public Service Corp [] Government/ Nonprofit []		

**City of Petersburg
Sole Source Procurement Justification Form**

All requests for sole source purchases must meet the criteria established under § 2.2-4303E. of the *Code of Virginia*. The department or division head or designee must sign this form. The Procurement Office must review and approve all requests before issuance of any contract or purchase order. In addition, the department / division must also attach a brief description of the contract, attach the sole source justification in accordance with the Sole Source Procurement Instructions, and the completed Purchase Requisition.

Date: _____

Department / Division: _____

Department / Division Head Signature: _____

Department / Division Head Name: _____
Printed Name

Contact Person: _____ Telephone Number: _____

Total Amount of Sole Source \$ _____ Facsimile Number: _____

Commodity Description: _____

Procurement Office:

- Approved**
- Disapproved**
- More information needed (specify and return to department / division)**

Signature _____ Date _____
Procurement Officer

Note: This form must be filed with the contract/purchase order.

SOLE SOURCE PROCUREMENT INSTRUCTIONS

It is the policy of the City of Petersburg that contracts are awarded on a competitive basis and that the use of a sole source procurement must be limited to those instances where only one source is practicably available.

Sole source requests must contain a memorandum from the department / division that addresses in a direct and concise manner the following five points (by number and in order):

1. Explain why this is the only product or service that can meet the needs of the department / division.
2. Explain why this vendor is the only practicably available source from which to obtain this product or service.
3. Explain why the price is considered reasonable.
4. Letter from the vendor stating they are the only source to provide this product or service.
5. Describe the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

Departments / Divisions must use the Sole Source Procurement Approval Request form as the cover routing form for all sole source procurements. Complete the "Department / Division" portion of the form and forward the Sole Source Procurement Approval Request to the Procurement Office with the memorandum and supporting documentation. Supporting documentation should include any market analysis conducted in order to ensure that the goods or service required was practicably available from only one source. For a determination on reasonableness of price, if the goods or service has been provided before, document that price. Research and determine if another department / division or municipality has purchased the same commodity.

Questions one through four (noted above) and their respective answers must be submitted with the Sole Source Procurement Approval Request.



**PURCHASING REQUISITION
CITY OF PETERSBURG
PETERSBURG, VIRGINIA 23803**

DATE: _____

DELIVER TO:

REQUISITION #: _____

CONTRACTOR:

CONTRACT #: _____
(If Applicable)

Agency Authorization:

Sign: _____
Agency Department Head Signature

Date: _____

Sign: _____
Agency Department Head Designee Signature

Date: _____

Goods/Service must be delivered by... (specify date in which goods/service need to be delivered)	Date:	Terms/per Contract... i.e. Net 30, 2%, etc...	
---	-------	--	--

ITEM NO.	QTY.	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
1	1				\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00

FUNCTION	OBJECT	AMOUNT	TOTAL
		\$0.00	\$0.00
PROCUREMENT OFFICE ONLY THIS SECTION			
CITY OF PETERSBURG, VIRGINIA			
ASSIGNED TO: _____			
Date: _____			
FUNDS CERTIFIED BY PROCUREMENT.			Approved
Dist: Purchasing Dept.			By: _____
Agency			Purchasing Agent Date



CITY OF PETERSBURG

PROCUREMENT OFFICE

125 N UNION STREET

PETERSBURG, VIRGINIA 23803

(804) 733-2345

www.petersburg-va.org

EMERGENCY PURCHASES

The Purchasing Agent is required to place in the contract file a written determination of the basis for the emergency declaration or that the selection of a particular contractor for such purchases. *Code of the City of Petersburg, Sections 2-393, Virginia Code Sections 2.2-4303 F.*

I. Emergency Purchases:

- (a) In an emergency, the Purchasing Agent may authorize or order the expenditure of funds for emergency purchases of supplies, materials, equipment and contractual services for the using agencies without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency shall be included in the contract file.
- (b) An emergency shall be deemed to exist when the Purchasing Agent determines that:
 - (1) A breakdown or failure of machinery or other equipment has occurred;
 - (2) A curtailment, diminution or termination of an essential service is threatened; or
 - (3) A dangerous condition has developed and that a procurement without recourse to competitive sealed bidding or competitive negotiation is:
 - a. Needed to prevent loss of life or property;
 - b. Essential to protect and preserve the interests of the city and its inhabitants;
 - c. Needed to maintain the proper functioning of the city government; or
 - d. Needed to maintain the efficient rendering of public services.

This purchase order or contract was entered into to meet the following emergency (Circle item above).

Description: _____

Purchasing Office

- Approved Disapproved
- More information needed (specify and return to department / division)

Signature _____ Date _____

Note: This form must be filed with the contract/purchase order.

Federal Required and Other Model Contract Clauses

	Rolling Stock	Operating	Construction	Consultant Services	Research	Goods	Prof Svcs
1. Fly America - Required for air transportation.	>\$100,000		>\$100,000			>\$100,000	
2. Buy America		X					
3. Charter Bus and School Bus							
4. Cargo Preference - Required for all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.							
5. Seismic Safety	X		New Bldg				X
6. Energy Conservation	>\$100,000	X	X	X	X	X	X
7. Clean Water	X	Tumkey	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
8. Bus Testing	X	Tumkey					
9. Pre-Award and Post Delivery Audit	X						
10. Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000		>\$100,000	>\$100,000
11. Access to Records and Reports		X	X	X	X	X	X
12. Federal Changes	X	X	X	X			
13. Bonding			>\$100,000				
14. Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
15. Recycled Products	* >\$10,000	* >\$10,000	* >\$10,000	* >\$10,000	* >\$10,000	* >\$10,000	* >\$10,000
16. Davis-Bacon and Copeland Anti-Kickback Acts			>\$2,000				
17. Contract Work Hours and Safety Standards Act			>\$100,000				
19. No Government Obligation to Third Parties	X	X	X	X	X	X	X
20. Program Fraud and False or Fraudulent Statements and Related Acts	X	X	X	X	X	X	X
21. Termination	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
22. Government-wide Debarment and Suspension (Nonprocurement)	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
23. Privacy Act	X	X	X	X	X	X	X
24. Civil Rights	X	X	X	X	X	X	X
25. Breaches and Dispute Resolution	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
26. Patent and Rights in Data					X		
27. Transit Employee Protective Agreements		X					
28. Disadvantaged Business Enterprise (DBE)	X	X	X	X	X	X	X
30. Incorporation of Federal Transit Administration Terms	X	X	X	X	X	X	X
31. Drug and Alcohol Testing		X					

* Procurement of items designated by EPA - 40CFR247

January 2007

RAS\CI\Procurement\Procedures\FTA Required Clauses Chart.xls\forms

ACKNOWLEDGEMENT OF FTA CLAUSES

Acknowledgement of FTA Clauses: The undersigned certifies to the best of his /her knowledge and belief, that the FTA Clauses and documents on pages _____ (insert applicable page numbers) shall be incorporated as a part of the contract.

By: _____
(Signature of Company Official)

(Date)

(Official's Title)

This form must be acknowledged and returned with your IFB/RFP response.

Return this Form with Bid/Proposal Response.

INDEPENDENT COST ESTIMATE (ICE) FORM

Project Name Title	SHADED AREA FOR PROCUREMENT USE ONLY
Purchase Requisition (PR) #	Assigned Buyer #
	D/M/WBE %

NEW CONTRACT/PROCUREMENT

<input type="checkbox"/> EXPIRING CONTRACT TO BE MODIFIED	Contract #
	PO#

<input type="checkbox"/> Contract Modification	Contract #
	P.O.#

Date _____

Requestor _____

Phone Number _____

Email _____

Estimate \$ _____ (Include shipping and handling)

Please substantiate the estimate by providing a complete estimate using one of the attached pages.

If the scope of work includes any required computer software, hardware, data transmission or electric equipment needed to comply with PAT's Information Technology (IT), the Director's acknowledgment is required.

IT Director Date

The budget for this acquisition has been identified and the funds have been allocated.

Director of Finance Date

Grants Administrator Date

FTA Funded Yes No Unbudgeted Memo Attached? Yes No
IDOT Funded Yes No

The scope and ICE are complete and conforms with PAT's Policies and Procedures for Procurement.

Project Manager Date

Requestor: You are required to provide Procurement with a detailed scope of work and estimate with your Purchase Requisition (PR). Procurement cannot start the acquisition process without the scope, ICE, bid price breakdown form and period of performance. Procurement and Contract Administration will advise you of any deficiencies in writing and will hold the PR and this form for five (5) working days. A scope of Work Checklist, Estimate Guide and Estimate forms are provided as attachments to assist you in completing some of the required information.

Processing Times:

- Request for Proposals- \$50,000 or greater: 180 workdays from the time a complete ICE is assigned to a Contract Specialist/Buyer to the date of Notice To Proceed is issued.
- Sealed Bids- \$50,000 or greater: 90 workdays from the time the complete ICE form is assigned to a Contract Specialist/Buyer to the date the Notice To Proceed is issued.
- Request for Quotations: Under \$50,000: 14 to 30 workdays from the time the complete ICE form is assigned to a Contract Specialist/Buyer to the date the Notice to Proceed is issued.
- Fax Quotes- Under \$50,000: up to 14 workdays from the time the complete ICE form is assigned to a Contract Specialist/Buyer to the date a Purchase Order is issued.
- Change Order/Modification- 15 workdays from the time the complete ICE form, justification and Proposed Change Request (PCR) are provided to the Contract Administrator (CA) to date the change is executed.

• *GEC Task Order – 10 – 20 workdays from the time the complete ICE form and scope of work is provided to the CA to the date the task order is issued. These times are averages and are provided to allow you sufficient time to plan your delivery dates.*

**INDEPENDENT COST ESTIMATE (ICE) GUIDE
PART I (See Part III, Scope OF Services Checklist)
{Enter Project Name}**

The attached Scope of Work contains at a minimum the following:

For Materials:	For Consultants:
<input type="checkbox"/> Quantity of items and/or materials required	<input type="checkbox"/> List of responsibilities to be performed by consultant
<input type="checkbox"/> A detailed description of each item required	<input type="checkbox"/> A detailed list of deliverables required from consultant
<input type="checkbox"/> Specifications and/or drawings for materials required	<input type="checkbox"/> Anticipated contract term and start date
<input type="checkbox"/> Date materials are required	<input type="checkbox"/> Location of project
<input type="checkbox"/> Delivery address and Metro's point of contact	<input type="checkbox"/> Project manager's name, phone number, fax number and email address
For Contractors:	
<input type="checkbox"/> A detailed list of tasks to be performed by the Contractor	<input type="checkbox"/> Anticipated Contract Term and Start Date
<input type="checkbox"/> Specifications, drawings and/or pictures of job site or projected results of contractor's tasks	<input type="checkbox"/> Location of project
	<input type="checkbox"/> Project Manager Name, phone number, fax number and email address

Note: The above are applicable if a firm-fixed price (FFP) contract is contemplated.

(Insert Scope of Work here)

Submitted By:

Date:

PR#

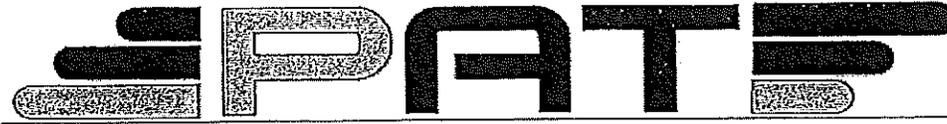
Estimate Guide PART II

Estimate Type	Items to include	Where to find supporting information
Services (Other than A&E)	<ol style="list-style-type: none"> 1. The tasks you want done 2. The types of people needed (i.e., supervisor, admin assistant, other) 3. The positions required (i.e., Project Manager, Deputy PM, Senior Engineer/Planner, other) 4. The estimated hours by position 5. The salary/billing rates applied 6. Prevailing wage rate category applied 7. The profit/applied fee 8. Direct expenses 9. Completion schedule 	<ol style="list-style-type: none"> 1. Current or past contracts for similar services 2. Other properties/departments doing similar work 3. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and cost data
Architect, Engineers, Designers	<ol style="list-style-type: none"> 1. The tasks you want done 2. The types of people needed (i.e., engineers, admin assistant, other) 3. The positions: Project Manager, Deputy PM, Senior Engineer/Planner, Other 4. The estimated hours by position 5. The salary/billing rates applied 6. The profit/applied fee 7. Overhead rate % 8. Direct expenses 9. Completion schedule 	<ol style="list-style-type: none"> 1. Current or past contracts for similar services 2. Other properties/departments doing similar work 3. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and costs data
Goods/Equipment	<ol style="list-style-type: none"> 1. Product needed 2. Quantity 3. Unit price 4. Markup - overheads - profit 5. Delivery Schedule desired 6. Warranty 	<ol style="list-style-type: none"> 1. Vendor survey/Market survey 2. Current or past contracts for the same or similar product 3. Procurement and Contract Administration staff can assist you in obtaining historical price and costs data

Construction

1. Product needed
2. Labor (at a minimum use Davis Bacon)
3. Materials
4. Bonds
5. Insurance
6. Mobilization
7. Equipment
8. Mark ups; fringes, overheads, profit
9. Completion schedule

1. "Means Book"
2. "Blue Book"
3. Davis Bacon Wage Rates www.gpo.gov/davisbacon
4. Current or past contracts for the same project
5. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and cost data



Price Analysis Form

Comparisons with other competitive proposals: _____

Price quoted by vendor: _____

Competitive prices obtained from other vendors (list name of vendor and price):

Previous Contracts: _____

Date of Contract: _____

Purchase Price: _____

Catalog/Market Prices: _____

Source: _____

Purchase Price: _____

Historical Prices: _____

Date: _____

Purchase Price: _____

Independent Cost Estimates: _____

Source: _____

Date: _____

Purchase Price: _____

Price/Performance Ratio (if applicable): _____

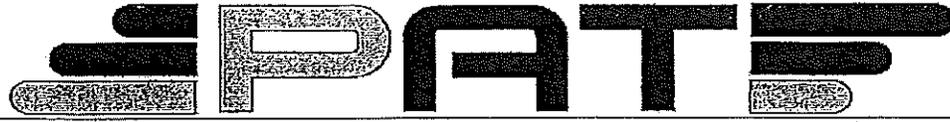
Separate cost elements and the proposed profit of the offeror's cost proposal

Market Data: _____

Source: _____

Date: _____

Purchase Price: _____



Helpful Guidelines

A "price analysis" will be the usual procedure followed in a competitive situation and in situations where items are being procured which are sold in the commercial marketplace to the general public. A "price analysis" is an evaluation of the offeror's price relative to the prices being offered by other vendors and being paid by the general public for the same or similar items. The essential factors, which must be present in order to make a "price analysis," are as follows:

- The product must be a "commercial product" (i.e., one for which there is a basis of comparison in the commercial marketplace). Price analysis would not be suitable, for example, for research and development items, or for one-of-a-kind items for which there was no basis of comparison.
- It is not necessary that competing products be exactly identical to the products being offered, but you must be able to compare the products' capabilities and their respective price differences in light of those varying capabilities. By such comparisons one is able to make value judgements that a particular product's performance capabilities warrant a higher or lower price than a competing product.

A "cost analysis" will be required whenever a price analysis cannot be performed. A cost analysis entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost proposal. A cost analysis is conducted to perform an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract "should cost", assuming reasonable economy and efficiency. A cost analysis will be appropriate in the following situations:

- The product or service being offered is not susceptible to being evaluated against other commercially available items of similar products or services. Examples would include procurement for professional services where no competing price proposals are submitted, as in procurement for architectural-engineering services where only one cost proposal is solicited from the highest ranking firm, or a sole-source procurement for other types of services.
- When change orders are issued to contracts requiring the contractor to do work whose cost can only be evaluated by examining the various cost elements, such as labor, materials, travel, etc.
- A cost or price analysis is required for every procurement action to include contract modifications.



PROCUREMENT HISTORY FORM

Bid Description: _____

Contract Officer: _____

Please Complete the Following:

Requisition #: _____ Funding #: _____ Date Rec'd: _____

Bid Type: Formal RFP Informal/RFQ Other
 Formal IFB Sole Source

1. Rationale for the Method of Procurement: _____

2. Selection of Contract Type: _____

3. Reasons for Contractor Selection or Rejection: _____

4. Basis for the Contract Price: _____

5. Level of Documentation: _____

Procurement Specialist Signature: _____

Date: _____



PROPOSER RESPONSIVENESS AND RESPONSIBILITY CHECKLIST
DRAFT

Doc No.: X###.0-##
 Project Name: Project Name
 Bidder's Name: Bidder's Name
 Responsiveness By: Type Name Responsibility By: Type Name

A. PROPOSER RESPONSIVENESS DETERMINATION:

#	Requirement	YES	NO	N/A	Comments
1	The Proposer accurately executed and submitted with its proposal the required CITY forms listed in section B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2	Proposal received on time; and Cost Proposal is separate from the Technical Proposal.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3	All fields where information is required in the Cost Proposal is filled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4	Meets the specified brand and/or "equal" product(s) in the RFP/IFB	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Choose an item
5	Proof/statement that Proposer can meet the Insurance requirements in the RFP/IFB <i>3.3.4 INSURANCE</i> <i>Submit a statement in the cover letter, or provide proof that the required insurance coverage contained in the Sample Agreement can be obtained by the Proposer</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6	Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

B. CITY FORMS:

#	Description	Forms Submitted			Comments
		YES	NO	N/A	
7	Addenda Acknowledgement Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Add Summary
8	Contact Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9	Cost/Pricing Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10	Designation of Subcontractors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	# of Subcontractors
11	DBE Program - Information for City's Bidder List	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sub DBE Submittals
12	Certification Regarding Debarment, Suspension and Other Ineligible and Voluntary Exclusions Lower-Tier Covered Transactions Contractor and Subcontractor's Statement of Eligibility Form and Questionnaire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Choose one Sub Sig Submittal
13	Equal Opportunity Program Workforce Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
14	Proposer's Financial Questionnaire Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
15	Noncollusion Declaration Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16	Bill of Materials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
17	Request for Pre-Offer Changes or Approved Equal Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Approved Equal



4	Affirmative Action and DBE: The review of the PROPOSAL indicates Proposer is either in compliance with the Common Grant Rules' affirmative action and FTA's Disadvantaged Business Enterprise requirements (based on review of prior agreements) or intends to comply with the same if awarded a Contract under this RFP.	<input type="checkbox"/>	<input type="checkbox"/>	
5	Public Policy: Proposer is in compliance or affirms to comply with the public policies of the Federal Government, as required by 49 U.S.C. Section 5325(j)(2)(B).	<input type="checkbox"/>	<input type="checkbox"/>	

E. PROPOSER RESPONSIBILITY DETERMINATION - continued

#	REQUIREMENT	ACCEPTABLE		COMMENTS
		Yes	No	
6	Administrative and Technical Capacity: The review of the PROPOSAL indicates the Proposer has or will have the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).	<input type="checkbox"/>	<input type="checkbox"/>	
7	Licensing and Taxes: The review of the PROPOSAL indicates Proposer is in compliance with applicable licensing and tax laws and regulations, FTA C 4220.1F Page VI-23 11/01/2008.	<input type="checkbox"/>	<input type="checkbox"/>	
8	Financial Responsibility Documentation (Audited Financial Statements) <i>[as applicable]</i>	<input type="checkbox"/>	<input type="checkbox"/>	
9	Reference Check Documentation <i>[to be completed for all Proposers or those within the competitive range]</i>	<input type="checkbox"/>	<input type="checkbox"/>	
10	Receipt of all necessary data from the Proposer.	<input type="checkbox"/>	<input type="checkbox"/>	Note: Certificate of Insurance (COI) and/or Performance Bond (as applicable) to be requested after NIA.
11	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	

Proposer deemed Responsible?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	Notes:	
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APPENDIX D
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER -- MATRICES

A. THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30) 11-2-2022)
All FTA Assisted Third Party Contracts and Subcontracts		
No Federal Government Obligations to Third Parties (Use of Disclaimer)		§ 3(l)
False or Fraudulent Statements or Claims – Civil and Criminal Fraud		§ 4.e
Access to Third Party Contract Records		§ 16.s
Changes to Federal Requirements		§ 3.j.(1)
Equal Employment Opportunity (except special DOL construction clause)		§ 12
Disadvantaged Business Enterprises (DBEs)	Contract awarded on the basis of a bid/proposal offering to use DBEs.	§ 12.e
Incorporation of FTA Terms	Per FTA C 4220.1F.	§ 16.d
Prompt Payment		49 CFR 26.29
Prohibition on Certain Telecommunications Equipment		2 CFR 200.216 FAR 52.204-24
Awards Exceeding \$10,000		
Terminations		§ 11 and § 16.d.(2)
Debarment and Suspension	Awards exceeding \$25,000	§ 4.h
Notice to FTA and U.S. DOT Inspector General of waste, fraud, abuse...	Awards exceeding \$25,000	§ 39(b)
Lobbying	Awards exceeding \$100,000	§ 4.c and § 16.d(8)
Awards Exceeding the Simplified Acquisition Threshold (\$250,000)		
Resolution of Disputes, Breaches, or Other Litigation		§ 39
Awards Exceeding \$150,000 by Statute		
Clean Air	42 U.S.C. 7401-7671q.	§ 16.d.(7)
Clean Water	33 U.S.C 1251-1387	§ 16.d.(7)
Buy America	When tangible property or construction will be acquired. The threshold for applicability is no longer tied to the simplified acquisition threshold. It is statutorily fixed in 49 U.S.C. §5323(j)(13).	§ 15.a and b

Note: The Special EEO Clause for Construction is now shown on next page under "Construction Activities" for all contracts.

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER — MATRICES

- THIRD PARTY CONTRACT PROVISIONS (Continued)

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30) 11-2-2022)
Transport of Property or Persons		
Cargo Preference	When acquiring property suitable for shipment by ocean vessel.	§ 15.c
Fly America	When property or persons are transported by air between U.S. and foreign destinations, or between foreign locations.	§ 15.d
Construction Activities		
Construction Employee Protections – Davis-Bacon Act	For contracts exceeding \$2,000.	§ 16.d.(4)
Construction Employee Protections – Contract Work Hours & Safety Standards Act	For contracts exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 16.d.(5)
Construction Employee Protections – Sec. 1 Copeland Anti-Kickback Act – Sec. 2 Copeland Anti-Kickback Act	All contracts All construction contracts exceeding \$2,000.	§ 16.d.(4)
Special EEO Provision for Construction	All construction contracts	§ 16.d.(3)
Bonding for Construction Activities Exceeding \$250,000	5% bid guarantee bond. 100% performance and payment bond.	§ 16.n
Seismic Safety	Construction contracts for new buildings or for existing buildings.	§ 23.b
Veterans Preference	All construction contracts	16.u
Non-construction Activities		
Nonconstruction Employee Protection – Contract Work Hours & Safety Standards Act	For all turnkey, rolling stock, and operational contracts (except transportation services contracts and open market contracts) exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 24.b
Transit Operations		
Transit Employee Protective Arrangements		§ 24.d
Charter Bus Operations		§ 28
School Bus Operations		§ 29
Drug Use and Testing	Safety sensitive functions.	§ 35.b
Alcohol Misuse and Testing	Safety sensitive functions.	§ 35.b

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

A. THIRD PARTY CONTRACT PROVISIONS (Continued)

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30)-11-2-2022)
Planning, Research, Development, and Demonstration Projects		
Patent Rights		§ 17
Rights in Data and Copyrights		§ 18
Special Notification Requirements for States		
Special Notification Requirement for States		§ 37
Miscellaneous Special Requirements		
Energy Conservation	All Contracts	§ 26
Recycled Products	Contracts when procuring \$10,000 or more per year of items designated by EPA.	§ 16.d.(10)
Prohibition on Certain Telecommunications Equipment	All Contracts	2 CFR 200 Appendix II 2 CFR 200.216
Conformance with National ITS Architecture	Contracts and solicitations for ITS projects.	§ 16.l
ADA Access	Contracts for rolling stock or facilities construction/renovation.	§ 12.h
Assignability Clause	Procurements through assignments ("piggybacking").	§ 16.a, which incorporates FTA circular 4220.1

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

B. APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS
(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Equal Employment Opportunity except Special DOL EEO clause for construction projects)	All	All	All	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$250,000	>\$250,000	>\$250,000	>\$250,000	>\$250,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Clean Water	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Cargo Preference			Transport by ocean vessel.	Transport by ocean vessel.	Transport by ocean vessel.
Fly America	Foreign air transp. /travel.				
Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, etc.	\$25,000 or More. Prime and Subs				
Prompt Payment	All	All	All	All	All

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

B. APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS (Continued)
(excluding micro-purchases, except Davis-Bacon requirements apply to construction contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/Management	Rolling Stock Purchase	Construction	Materials & Supplies
Davis-Bacon Act				>\$2,000 (also ferries).	
Veterans Preference				>\$150,000	
Contract Work Hours and Safety Standards Act		>\$250,000 (transportation services excepted).	>\$250,000	>\$250,000 (also ferries).	
Copeland Anti-Kickback Act Section 1 Section 2				All > \$2,000 (also ferries).	
Bonding				>\$250,000	
Seismic Safety	A&E for new buildings & additions.			New buildings & additions.	
Transit Employee Protective Arrangements		Transit operations.			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit operations.			
Alcohol Misuse and Testing		Transit operations.			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually.		EPA-selected items \$10,000 or more annually.	EPA-selected items \$10,000 or more annually.
Seat Belt Use	All	All	All	All	All
Distracted Driving	All	All	All	All	All
Conformance with ITS National Architecture	ITS projects.	ITS projects.	ITS projects.	ITS projects.	ITS projects.
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States.	Limited to States.	Limited to States.	Limited to States.	Limited to States.
Prohibition on Certain Telecommunications Equipment	All	All	All	All	All

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

C. CERTIFICATIONS, REPORTS, AND FORMS

CERTIFICATIONS, REPORTS, AND FORMS	COMMENTS	REGULATORY REFERENCE
Bus Testing Certification	All procurements of new model transit buses and vans and existing models being modified with major changes.	49 CFR Part 665
TVM Certifications	All rolling stock procurements.	49 CFR Part 26
Buy America Certification	Procurements of steel, iron, manufactured products and construction materials exceeding \$150,000.	49 CFR Part 661
Preaward Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Preaward Buy America Certification	Rolling stock procurements exceeding \$150,000.	49 CFR Part 663
Preaward Purchaser's Requirement	All rolling stock procurements.	49 CFR Part 663
Post Delivery Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Post Delivery Buy America Certification	Rolling stock procurements exceeding \$150,000.	49 CFR Part 663
Post Delivery Purchaser's Requirement	All rolling stock procurements to the extent required by Federal law and regulations.	49 CFR Part 663
On-Site Inspector's Report	Rolling Stock except for procurements of: - 10 or fewer vehicles; - 20 or fewer vehicles serving rural (other than urbanized) areas or urbanized areas or 200,000 people or fewer; - any amount of primary manufactured standard production and unmodified vans that after visual inspection and road testing meet the contract specifications.	49 CFR Part 663
Federal Motor Vehicle Safety Standards - Preaward and Post Delivery Reviews	Motor vehicle procurements (49 CFR 571).	49 CFR Part 663
Lobbying	Procurements exceeding \$100,000.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding \$100,000 where contractor engages in lobbying activities.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

D. OTHER MATTERS

OTHER MATTERS	COMMENTS	STATUTORY OR REGULATORY REFERENCES
Contract Administration System		2 CFR § 200.318(b)
Record of Procurement History		2 CFR § 200.318(i)
Protest Procedures		2 CFR § 200.318(k)
Selection Procedures		2 CFR § 200.320 b.
Cost/Price Analysis		2 CFR § 200.324
Justification for Noncompetitive Awards	If Applicable.	2 CFR § 200.320 c.
No Excessive Bonding Requirements		2 CFR § 200.319(b) (2)
No Exclusionary Specifications		2 CFR § 200.319(d) (1)
No Geographic Preferences	Except for A&E Services	42 CFR § 200.319 c.