



ROCHESTER
GENESEE REGIONAL
TRANSPORTATION
AUTHORITY

PROCUREMENT MANUAL

Policies & Procedures

Version 5

*Accepted by the Governance Committee,
and subsequently approved by the
full Board of Commissioners on September 22, 2022.*



PROCUREMENT MANUAL

POLICIES & PROCEDURES

Next Review: Annual
Owner: Governance Committee

Accepted by the Governance Committee on August 4, 2022, whose Meeting Minutes were Approved by the full Board of Commissioners on September 22, 2022.

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SECTION 1 - Overview of the Procurement Manual

- A. The Rochester Genesee Regional Transportation Authority (RGRTA) procurement manual outlines uniform policies and procedures to ensure that RGRTA's interests are protected; ensure that all federal and state procurement laws and regulations are followed; and communicate policies and procedures to staff who are delegated purchasing authority.
- B. The primary objective is to secure the best deliverables at the lowest available price or best value, consistent with quality requirements and delivery needs while complying with this manual.
- C. Failure to appropriately procure goods and services in accordance with this manual could jeopardize federal and state funding to RGRTA. All RGRTA staff involved in procurement activities must familiarize themselves with this Manual.

1.1. *Applicability*

- A. The Manual applies to the use, award, monitoring, and reporting of contracts by RGRTA on its own behalf, on behalf of its subsidiaries, or by its subsidiaries.
- B. The policies and procedures outlined in this manual were written in consultation with the Federal Transit Administration's (FTA) Best Practices Procurement Manual, the FTA's Procurement System Self-Assessment Guide, and the FTA Circular 4220.1F, Third Party Contracting Guidelines. Additionally, this manual is intended to be in full compliance with the applicable provisions of the NYS Public Authorities Law, NYS Finance Law, NYS Economic Development Law, NYS Public Officer's Law and NYS Executive Orders.
- C. Deviations from the non-federally required elements of this Manual may be made with written approval of the Authority's General Legal Counsel or their designee if the deviation protects RGRTA's interests and achieves the lowest price or best value for the Authority.
- D. This Manual provides guidance of officers and employees of RGRTA only, and nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation, any right, claim or benefit under, or by reason of, any requirement or provision hereof.
- E. Nothing contained in this Manual shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions herein, unless RGRTA, in its sole discretion, determines that it shall be so.
- F. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements that are in conflict with, or that impose greater obligations upon RGRTA than these Guidelines, those requirements, shall take precedence over those contained herein.
- G. RGRTA shall not be precluded from adopting additional requirements for particular contracts relating to the matters covered by this Manual.
- H. This manual has been duly adopted by resolution of RGRTA's Board of Commissioners and shall be reviewed and approved by RGRTA's Board of Commissioners on an annual basis.



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1.2. Acronyms of Regulatory Agencies and Programs

- A. Disadvantaged Business Enterprise (DBE)
- B. Empire State Development (ESD)
- C. Federal Transit Administration (FTA)
- D. General Services Administration (GSA)
- E. Minority and Women Business Enterprise (MWBE)
- F. New York State Department of Economic Development (NYS DED)
- G. New York State Office of General Services (NYS OGS)
- H. New York State Office of the State Comptroller (NYS OSC)
- I. Service-Disabled Veteran Owned Business (SDVOB)

1.3. Definitions

- A. "Accounting System" is defined as RGRTA's financial software system which encompasses accounting, accounts payable, accounts receivable, and processing of Purchase Orders.
- B. "Covered Persons" is defined as every RGRTA officer, employee, agent, and Board Member involved in the award or administration of contracts.
- C. "Contract Owner" is defined as the individual responsible for the department utilizing the contracted deliverable or designee.
- D. "Contract Management Officer" is defined as any RGRTA officer or employee who is directly involved in the monitoring and oversight of contracts.
- E. "Deliverables" is defined as the goods, services, or combination thereof requested of a Vendor.
- F. "e-Procurement System" is defined as RGRTA's software system which encompasses registered interested suppliers, purchasing, and execution and management of contracts.
- G. "Event" is defined as any procurement processed through the e-Procurement System. The word event, procurement, and solicitation are used interchangeably in this Manual.
- H. "Formal Procurement" is defined as an Invitation for Bids or a Request for Proposals.
- I. "Interested Party" is defined as an actual or prospective supplier, who has viewed the Event and whose direct economic interest would be affected by the award of a contract or by failure to award a contract. The word Interested Party, bidder, contractor, vendor, supplier and proposer are used interchangeably in this Manual.
- J. "Multi-year Contract" is defined as any contract with a term greater than one year exclusive of optional renewals.
- K. "Policy Manager" is defined as RGRTA's internal, online database of policies and procedures. All documents that indicate they are in the Policy Manager are underlined and a clickable link.

- L. “Procurement Officer” is defined as an officer or employee of the RGRTA Procurement Department, who is directly involved in the award of contracts at all Procurement thresholds defined in this Manual with the exception of Micro-Purchases and Small Purchases.
- M. “Project Management Consultant” is defined as a third-party consultant responsible for monitoring Civil Rights and Diversity Programs Policy compliance.
- N. “Purchasing Agent” is defined as any RGRTA officer or employee who is directly involved in any award or administration of contracts at the Micro-Purchase and Small Purchase threshold as well as any purchases utilizing a New York State Office of General Service Contract or GSA Schedule.
- O. “RGRTA” is defined as the Rochester Genesee Regional Transportation Authority and all of its subsidiaries.

SECTION 2 - Methods of Procurement

2.1. *Micro-Purchase*

- A. Micro-purchases are defined as deliverables costing less than \$2,500.
- B. Micro-purchases may be made without obtaining competitive quotations.
 - a. Purchasing Agents shall not divide or reduce the size of purchases to stay within this method.
 - b. Purchasing Agents shall distribute micro-purchases equitably among qualified vendors.
- C. Purchasing Agents shall complete [Requisition Backup Submission Form](#).
- D. Davis-Bacon prevailing wage requirements apply to federally funded construction contracts exceeding \$2,000. These requirements apply to federally funded construction contracts and require certified payrolls and are subject to audits.

2.2. *Small Purchase*

- A. Small purchases cost at least \$2,500, but not more than \$24,999.99.
- B. Purchasing Agents shall obtain three (3) written quotes and shall award to the firm offering the lowest price. Every effort shall be made to include at least one vendor covered under the Civil Rights and Diversity Programs Policy.
 - a. Email or website quotations are accepted as written quotes.
- C. Each vendor requested to provide a price quotation or proposal must be supplied with the written specifications outlining the item/service to be purchased.
- D. If the Purchasing Agent has solicited at least five (5) potential vendors and is unable to obtain three (3) quotes, the Purchasing Agent may submit a request that the Procurement Department waive the requirement for a third quote.
 - a. If the Procurement Department determined the two (2) quotes are sufficient, this determination shall be noted with the requisition in the Accounting system.
- E. Purchasing Agents shall ensure the quotes and any additional supporting documents are submitted to the [Requisition Backup Submission Form](#) when entering a Requisition.

2.3. *Small Purchases for Professional Services:*

- A. Professional Services contracts costing at least \$2,500, but not more than \$15,000 may be procured without competition if approved by the Chief Financial Officer or designee.
 - a. Professional Services is defined as occupations which may require an advanced degree and licenses, certifications, or training. These include auditing, legal, medical/occupational, consulting, architecture, engineering, advertising/marketing, and planning.
 - b. Architecture and Engineering Services may not be procured by this method if Federal Funds are being spent.
- B. Purchasing Agents who seek to award this type of contract shall follow the [Small Purchase for Professional Services Procedure](#).

2.4. *Invitation for Bids (IFB)*

- A. This method of procurement is the preferred method for acquisitions of \$25,000 or more when one or more of the following factors is present:
 - a. A complete, realistic, and exact specification or purchase description is available
 - b. Two or more responsible Vendors are identified to compete effectively for the business
 - c. The award can be made on the basis of lowest price
 - d. No discussion with Vendor is needed either before or after bid submission
- B. Sealed bids shall be publicly solicited and a firm, fixed-price contract (lump sum or unit price) shall be awarded to the lowest responsive bid submitted by a responsible bidder.
- C. Procurement Officers shall follow the IFB process documented in Section 8.
- D. Procurement Officers shall document the sound business reasons for rejecting any or all bids.
- E. Procurement Officers shall ensure all forms required in Section 10 are completed and retained.

2.5. *Request for Proposals (RFP)*

- A. RFPs are generally used when conditions are not appropriate for the use of sealed bids and cost is less important in relation to other factors driving the procurement. Either a fixed-price or cost-reimbursable type contract is awarded in this type of procurement.
- B. This method of procurement is the preferred method for acquisitions of \$25,000 or more when one or more of the following factors is present:
 - a. The desired deliverables cannot be precisely defined, described or standardized.
 - b. The desired end product is conceptual in nature
 - c. Two or more responsible Vendors are identified to compete effectively for the business
 - d. A Cost Reimbursement type contract is contemplated
 - e. Discussions concerning the technical aspects and price negotiation are intended
 - f. Vendors may be given the opportunity to revise their Technical or Price Proposal
 - g. Price alone cannot be the determinative factor in award. Quality, qualifications, performance data, or other factors are to be considered in selecting the most advantageous proposal
- C. Procurement Officers shall follow the RFP process documented in Section 9.

- D. Procurement Officers shall ensure all forms required in Section 10 are completed and retained.
- E. When using FTA funds, this Method of Procurement is not permitted for the acquisition of Architecture & Engineering Services.

2.6. Architecture & Engineering Services (Brooks Act)

- A. RGRTA shall use a qualifications-based procurement method based on the Brooks Act when contracting for federally funded Architecture & Engineering (A&E) Services Contracts.
 - a. Other types of services considered to be A&E Services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a licensed architect or engineer.
- B. Brooks Act Procurements follow the same procedures as an RFP with the following changes:
 - a. RGRTA shall solicit a technical proposal, but not a Price Proposal, from each Vendor
 - b. Proposals are evaluated excluding price as a factor;
 - c. A Price Proposal shall only be accepted from the Vendor deemed most qualified, and
 - d. If RGRTA cannot reach agreement with the selected vendor on a fair and reasonable price for the work, then the next most qualified vendor is requested to submit a Price Proposal. Negotiations are conducted until a contract award can be made to the most qualified Vendor whose price is determined to be fair and reasonable.
- C. Procurement Officers shall ensure all forms for an RFP in Section 10 are completed and retained.

2.7. Sole Source

- A. When supplies or services are available from only one responsible source, and no other supplies or services will satisfy its requirements, RGRTA may make a sole source award.
- B. Sole Source purchases are appropriate when one of the following conditions is present:
 - a. Unique or Innovative Concept – The Vendor demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted and is available to the recipient only from one source and has not in the past been available to the recipient from another source.
 - b. Patents or Restricted Data Rights – Patent or data rights restrictions preclude competition.
 - c. Substantial Duplication Costs – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another vendor would result in substantial duplication of costs that are not expected to be recovered through competition.
 - d. Unacceptable Delay – In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another vendor would result in unacceptable delays in fulfilling the recipient's needs
- C. Lack of advance planning is not an acceptable justification for a sole source procurement.
- D. When RGRTA requires an existing vendor to make an out-of-scope change, RGRTA has made a sole source award that must be justified.

- E. When utilizing federal funds for a sole source procurement, a cost-analysis must be performed by the Procurement Officer.
- F. Purchasing Agents who seek to award this type of contract shall follow the [Sole Source Procedure](#)

2.8. Single Source

- A. Upon receiving a single bid or single proposal in response to an Event, the Procurement Officer should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a response.
- B. The Procurement Officer shall complete the Single Source Request.
- C. If the Single Source Request has been reviewed and approved by all internal approvers, the Procurement Officer shall ensure any and all required approvals detailed in the Review & Approval of Purchases and Contracts Section are obtained and a sound and complete agreement can be executed in the e-Procurement System.

2.9. Design-Bid Build

- A. The design-bid-build procurement method requires separate contracts for design services and for construction.
 - a. Design Services: RGRTA must procure design services following the Architecture & Engineering Services (Brooks Act) Procedures if Federal funds are used.
 - b. Construction: Because the Authority may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, RGRTA shall competitively procure this portion of the project through an IFB or an RFP.

2.10. Design Build

- A. The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single vendor, consortium, joint venture, team, or partnership that will be responsible for both the project's design and construction.
- B. Procurement Method Determined by Value. Because both design and construction are included in a single procurement, RGRTA shall use the procurement method appropriate for the services having the greatest cost for the entire procurement, even though other necessary services would not typically be procured by that method. If construction costs are predominant then RGRTA shall use the sealed bid method of procurement to select the vendor. If design costs are predominant then RGRTA shall use qualifications-based procurement procedures to select the vendor.
- C. Selection Process: The Authority may structure its design-build procurement using one or more steps as described below:
 - a. One-Step Method: The Authority may undertake its design-build procurement in a single step.
 - b. Two-Step Method: Another procurement method the Authority may use for large design-build projects is a two-step selection process. This method consists of two steps:

- i. The first step is a review of the prospective vendors' technical qualifications and technical approach to the project. The Authority may then narrow down to finalists that have satisfactory qualifications and demonstrate a technically satisfactory approach.
- ii. The second step consists of soliciting and reviewing complete proposals, including price, submitted by finalists.

2.11. Purchases From New York State Contracts or GSA Schedules

- A. RGRTA may complete purchases and enter into contracts utilizing NYS OGS contracts and GSA schedules without additional competitive procedures, unless required by NYS OGS.
 - a. NYS OGS Contracts/Schedules are available at <https://www.ogs.ny.gov/purchase/searchbrowse.asp>.
- B. The Federal "Local Preparedness Acquisition Act" (Public Law 110-248) authorized state and local governments access to certain Federal Supply Schedules through the GSA.
 - a. GSA Schedules are available at: <https://www.gsa.gov/portal/category/100631>.
- C. If federal funds are used in this type of procurement, the Procurement Officer must ensure that the OGS or GSA contract/schedule meets FTA requirements for competitive procurements. If the federal required clauses are not part of the existing contract, the Procurement Officer shall attach them to the RGRTA contract.
- D. Copies of the NYS OGS Contract and Pricing shall be retained.

2.12. Joint Service Agreements

- A. Pursuant to New York State Public Authorities Law, RGRTA may enter into Joint Service Agreements (JSA) with other entities defined therein. Such JSA's shall be approved by the RGRTA Board of Commissioners.

2.13. Intergovernmental/Intermunicipal Joint Procurement Agreements

- A. To foster greater economy and efficiency, the RGRTA may enter into state and local intergovernmental or intermunicipal agreements for the joint procurement goods and services. The requirements and standards of this document apply equally to procurements entered into under such agreements.

2.14. Piggybacking

- A. RGRTA may complete purchases and enter into contracts utilizing other competitively procured municipal or governmental contracts.
- B. The Procurement Officer must ensure that the contract meets FTA and/or NYS requirements for competitive procurements. If the federal or New York State required clauses are not part of the existing contract, the Procurement Officer shall attach them to the RGRTA contract.

2.15. Emergency Procurements

- A. From time to time, emergency situations may arise which require that a procurement be made without following normal purchasing procedures.

- a. Emergency situations should be restricted to those times when delay in completing the procurement could result in jeopardy to persons or property and the situation leading to the emergency could not be normally anticipated.
- b. If an emergency situation occurs, it must be documented and this documentation must be placed in the procurement file.
- B. Emergency procurements shall be approved by the Chief Executive Officer (CEO) or designee.
- C. Emails to and from the CEO detailing the emergency nature of the procurement shall be retained.

2.16. Preferred Source Purchases

- A. When completing purchases that do not include Federal funds, RGRTA may purchase deliverables from New York State designated Preferred Sources without conducting a competitive procurement. More information on this program is available at <https://nyspro.ogs.ny.gov/content/buying-preferred-source-0>.

2.17. Purchase or Lease of Real Property

- A. Since the purchase and lease of land doesn't lend itself to one of the standardized processes detailed in this Manual, direct negotiation is a more appropriate means of completing these transactions.
 - a. RGRTA may engage a realtor in acquiring property.
- B. To ensure RGRTA is paying a fair price for the acquisition of a property, RGRTA shall obtain an appraisal of the property.
- C. When leasing space, RGRTA shall obtain a market study to ensure it is paying a fair price.
- D. When using Federal funds for the purchase of real property, RGRTA shall comply with the Federal Uniform Relocation Act.

SECTION 3 - Review & Approval of Purchases and Contracts

3.1. Award Contracts to Responsible Vendors

- A. RGRTA shall make awards only to responsible vendors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.
- B. Procurement Officers shall determine the responsibility of the vendor for all IFBs, RFPs, Single Source, and Sole Source awards by completing the Responsibility Determination.

3.2. Approval of Board of Commissioners

- A. All contracts for deliverables with a term of less than or equal to one-year which exceed \$125,000 require the approval of RGRTA's Board of Commissioners.
- B. All multi-year contracts for services having an estimated annual value exceeding \$5,000 require the approval of RGRTA's Board of Commissioners.
- C. All multi-year contracts for goods having an estimated term value exceeding \$125,000 require the approval of RGRTA's Board of Commissioners.

a. All contracts shall be reviewed annually by the RGRТА Board of Commissioners through its review and approval of the PARIS report.

D. All Contracts (with the exception of the purchase of revenue vehicles) that are executed through existing New York State Office of General Services (NYSOGS) contracts shall not require the approval of RGRТА’s Board of Commissioners.

3.3. Processing of All Purchase Requisitions

A. Purchase requisitions shall, at a minimum, be approved by an appropriate Department Manager.

a. Federally funded purchase requisitions shall be reviewed, at a minimum, by an appropriate Department Manager and a representative of the Finance Department to avoid purchase of unnecessary or duplicative items.

b. Additional approvers will be added as the cost of the Requisition increases.

3.4. Contract Award/Approval

A. All contract awards and approvals shall be approved by the appropriate Department Manager, Procurement Officer, Civil Rights Liaison, Chief Financial Officer, and General Counsel prior to execution by the Chief Executive Officer.

B. This approval process shall be documented in the e-Procurement system.

3.5. New York Comptroller Approval

A. Contracts and Amendments meeting criteria specified under the Public Authorities Reform Act of 2009 will be forwarded to the New York State Comptroller’s office for approval and/or filing.

B. The text of the law may be viewed at <https://www.abo.ny.gov/abo/Chapter506of2009.pdf>

C. More information is available at <https://www.abo.ny.gov/abo/ProvisionsPARA2009.pdf>.

3.6. New York State DOT Approval

A. When RGRТА is a sub-recipient of federal funds from the New York State Department of Transportation (NYSDOT) or is using Metropolitan Planning funds from the Genesee Transportation Council, the Procurement Officer shall ensure RGRТА has obtained all necessary approvals from NYSDOT.

B. Required documentation and procurement checklists are provided by NYSDOT at: <https://www.dot.ny.gov/divisions/policy-and-strategy/public-transportation/procurement>.

3.7. Department of Economic Development Approval

A. In compliance with Section 2879 subdivision 5 of the Public Authorities Law and Section 139-i of the State Finance Law, RGRТА shall notify the Commissioner of Economic Development of the award of a procurement contract for the purchase of deliverables from an Out-of-State foreign business enterprise in an amount equal to or greater than one million dollars simultaneously to the notification to the successful vendor.

B. Per regulations, RGRТА is not permitted to enter into a procurement contract for said deliverables until at least fifteen days have passed since RGRТА notified the NYS DED.



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3.8. Empire State Development Approval

- A. When seeking to award a non-federally funded contract to a vendor who has not met the assigned MWBE goal, RGRTA shall follow the process outlined in the Minority and Women's Business Enterprise (MWBE) Program Section of the Civil Rights and Diversity Programs Policy.

SECTION 4 - The Efficient Use of Taxpayer Dollars

4.1. Eligibility to Participate in Procurement Opportunities

- A. Any firm appearing on the Comptroller General's List of Ineligible Contractors is not eligible to participate.
- B. Vendors may be excluded from participating in a specific formal procurement, with written concurrence of the Chief Financial Officer (CFO), if one of the following scenarios exists:
 - a. RGRTA has terminated a contract for default or convenience with the vendor for the same or similar service.
 - b. Vendor has terminated its agreement with RGRTA by refusing to deliver under an existing contract.

4.2. Independent Cost Estimates (ICE)

- A. RGRTA shall perform an independent cost estimate for all formal procurements exceeding \$25,000 and all change orders regardless of value.
- B. Independent does not mean independent of RGRTA, it means independent of (and prior to) bids and proposals being received.
- C. For procurements using Federal funds, this cost estimate may be the estimated cost contained in the most recent version of the local Transportation Improvement Program (TIP).
- D. Obtaining cost estimates may be difficult or may lie outside the competence of agency personnel. In these cases, an outside vendor may assist in this process as long as they do not have any interest, financial or otherwise, in the purchase.

4.3. Price Analysis

- A. The Procurement Officer shall complete a Price Analysis for all procurements exceeding \$25,000 if it is determined that competition was adequate and/or price was within the expected range established by the ICE and does not meet the criteria detailed in Cost Analysis.

4.4. Cost Analysis

- A. Procurement Officers shall complete a Cost Analysis form for all procurements exceeding \$25,000 when Federal funds are being spent and the following scenarios exist:
 - a. Single Source or Sole Source Awards
 - b. Contract Modifications
 - c. Brooks Act Procurements
 - d. Price is inconsistent with the expected range established by ICE

- B. A Cost Analysis breaks down the total price into its components, looking at the vendor's costs to determine the profit margin contained in that price. These components include the following:
 - a. Direct and indirect labor costs
 - b. Overhead
 - c. General and Administrative expense (G&A) rates
 - d. Profit
- C. The Procurement Officer shall evaluate and negotiate the profit or fee using cost principles consistent with Federal guidelines as part of the Cost Analysis performed on all Sole Source Procurements utilizing Federal Funds.
- D. If RGRTA is unable to obtain cost data necessary to complete a Cost Analysis from the Vendor, the Procurement Officer shall document the inability to obtain cost information requested in the [Price/Cost Analysis Form](#).

4.5. Record of Procurement History

- A. A properly documented e-Procurement file should be a complete record and support the purchase made by RGRTA as well as provide a complete background as a basis for informed decisions at each step in the acquisition process.
- B. Purchasing Agents and Procurement Officers shall ensure all internal and external forms required in Section 10 are completed and included in the e-Procurement File.
- C. Procurement Officers shall post the procurement results in the New York State Contract Reporter, including all firms who participated in the procurement.
- D. Contract Officers shall post the award results in the New York State Contract Reporter,

SECTION 5 - Ensuring Full and Open Competition

- A. All procurements without regard to dollar value, will be conducted in a manner that provides maximum open and free competition. The following items shall be adhered with to ensure compliance with this requirement.

5.1. Advertisement

- A. All RFPs and IFBs shall be advertised in the New York State Contract Reporter and in the Rochester Business Journal. Additional advertisements may be placed in other newspapers or trade publications as deemed appropriate by the Procurement Officer.
- B. Procurement Officers shall make additional reasonable efforts to apprise vendors of solicitation opportunities by sending the public notice to industry associations, firms registered with the RTS Supplier Portal, or firms listed on the State's MWBE, SDVOB, and FTA's DBE listing (as appropriate).
- C. For proposed Sole Source awards, a notice must be published in the New York State Contract Reporter before proceeding with an award.

- a. The notice shall invite any person or firm to submit data and information proving that the required item/service can be obtained from other than the proposed sole source.

5.2. *Deadline for Submission of Event Responses*

- A. The earliest possible due date for the solicitation response deadline is fifteen (15) business days after the advertisement appears in the New York State Contract Reporter.
- B. When selecting the submission date, consideration should be given to time frames necessary for intervening activities, such as the pre-bid conference and the question and answer period.
- C. Other factors, such as the complexity of the RFP, the time needed for vendors to prepare a response, and the impact holidays will have on vendor's ability to respond shall be considered.

5.3. *Organizational Conflict of Interest*

- A. Organizational conflicts of interest are considered to be restrictive of competition and exist when any of the following scenarios exist:
 - a. A vendor is unable, or potentially unable, to provide impartial and objective assistance or advice due to other activities, relationships, contracts, or circumstances.
 - b. A vendor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract; or
 - c. During the conduct of an earlier procurement, a vendor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
- B. For guidance on situations which may give rise to an organizational conflict of interest, RGRTA staff shall review the guidance in the Federal Acquisition Regulation (FAR) Subpart 9.5 – Organizational and Consultant Conflict of Interest.

5.4. *Clear and Accurate Contract Specifications*

- A. Specifications for deliverables shall be written clearly and concisely to minimize ambiguity and to ensure that RGRTA receives the deliverables that are ideally suited for its needs while also ensuring the deliverables to be acquired in a manner that provides for full and open competition and does not unduly restrict competition.
 - a. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

5.5. *“Brand Name or Equal” Requirements*

- A. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used to define the performance or other salient characteristics required. The specific features of the named brand which must be met by vendors shall be clearly stated.
 - a. Specifying only a “brand name” product without allowing offers of “an equal” product or without listing item’s salient characteristics for the “equal” is impermissible.

5.6. *Requests for Deviations from Specifications (Approved Equals)*

- A. RGRTA shall allow vendors to submit a request for deviations from the specifications (Approved Equals) prior to the deadline for questions and shall consider all such requests that enhance flexibility in bidding without sacrificing the quality or integrity of the deliverables being procured.
- B. All requests for deviations that are submitted, accompanied by RGRTA's responses, shall be publicly available no later than five (5) calendar days prior to the event due date.

5.7. *Amendments*

- A. All Vendors listed on the Plan Holders List shall be notified of all amendments to the event, including any changes to specifications, scope of work, terms & conditions, or due dates.

5.8. *Prohibition on Arbitrary Action*

- A. Taking any arbitrary action in the procurement process, such as awarding to other than the most favorable vendor, is prohibited by RGRTA.

5.9. *Geographic Preference*

- A. For federally funded procurements, RGRTA shall not use statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This requirement does not pre-empt State-licensing laws.
- B. Geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services, provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- C. For non-federally funded procurements, geographic location may be a procurement requirement when required by State law or necessary for operational function.

5.10. *Unreasonable Requirements and Excessive Bonding*

- A. Unnecessary business requirements and excessive bonding requirements are considered to be restrictive of competition and therefore impermissible.
- B. Procurement Officers shall review each procurement to ensure insurance and bonding requirements are reasonable. Additionally, when procuring new or unique services, the procurement officer is encouraged to consult with RGRTA's insurance broker to identify proper insurance requirements are included.

5.11. *Vendor List*

- A. RGRTA shall maintain a current list of interested vendors to be used in soliciting quotes, proposals or bids within the e-Procurement System.

5.12. *Prequalification System*

- A. RGRTA does not currently pre-qualify products or firms prior to solicitation. However, in the event that pre-qualification becomes necessary in the future, RGRTA will consult with FTA regulations and update this manual to document how such a system would operate while ensuring Full and Open competition.

5.13. *Tag-Ons*

- A. Tag-ons are the addition of work (supplies, equipment or services) that is beyond the scope of the original contract that amounts to a cardinal change.
- B. The use of tag-ons is prohibited. RGRTA shall assess how to obtain the deliverables in accordance with this Procurement Manual.

SECTION 6 - Bonding

- A. RGRTA utilizes the following types of bonding to protect the interests of the Authority and its funding partners.

6.1. *Bid Security*

- A. For all construction projects exceeding \$100,000, Procurement Officers shall require a bid security equal to five percent (5%) of the bid price. The bid security shall consist of a firm commitment that the bidder will, upon acceptance of their bid, execute such contractual documents as may be required within the time period specified.
 - a. Bid security may be in the form of a bid bond or certified check.
 - b. The bid security of the successful bidder will be retained until execution of the Contract. Bid security of the unsuccessful bidders will be returned upon execution of the Contract with the successful bidder or 60 calendar days after the bid date, whichever occurs first.
 - c. In the event of neglect or refusal on the part of the successful bidder to execute the Contract and furnish the performance security and evidence of insurances within ten (10) days after written notification of the award of the Contract, RGRTA may retain the entire bid security as liquidated damages for such neglect or refusal.
- B. Procurement Officers may, at their discretion, require bid security for all other formal procurements using the same methodology detailed in this Section.

6.2. *Performance Bonds (Construction)*

- A. RGRTA shall require vendors to provide performance bonds equal to 100% of the original contract price for all construction projects exceeding \$100,000.
- B. If the contract price is increased by a change order, RGRTA shall require additional performance bonds equal to the increased value of the contract.
- C. Vendors shall obtain construction bonds from companies holding certificates of authority as acceptable sureties under Department of the Treasury regulations, "Surety Companies Doing Business with the United States," 31 CFR Part 223. For a current list of approved sureties, visit <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.



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6.3. *Payment Bonds (Construction)*

- A. RGRTA shall require vendors to provide payment bonds for all construction projects exceeding \$100,000 at the following levels:
 - a. 50% on contracts under \$1 million
 - b. 40% on contracts between \$1 million and \$5 million
 - c. \$2.5 million on contracts over \$5 million
- B. If the contract price is increased by a change order, RGRTA shall require additional performance bonds and payment bonds equal to the increased value of the contract.
- C. Vendors shall obtain construction bonds from companies holding certificates of authority as acceptable sureties under Department of the Treasury regulations, "Surety Companies Doing Business with the United States," 31 CFR Part 223. For a current list of approved sureties, visit <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

6.4. *Performance Bonds & Payment Bonds (Non-Construction)*

- A. RGRTA may include performance bonds or payment bonding requirements in non-construction related procurements when necessary to protect RGRTA's interests.
- B. The following situations may warrant a performance bond or payment bond:
 - a. RGRTA property or funds are to be provided to the vendor for use in performing the contract or as partial compensation (as in retention of salvaged material).
 - b. Substantial progress payments are made before delivery of final product.
 - c. Contracts are for dismantling, demolition, or removal of improvements.

6.5. *Advance Payment Bonding Requirements*

- A. If RGRTA obtains concurrence from the FTA to make advance payments to a third-party vendor, RGRTA shall require the vendor to obtain an advance payment bond equal to 100% of the value of the advanced payments.

SECTION 7 - Payments

7.1. *Advance Payments*

- A. RGRTA may not use FTA assistance to make payments to a third-party vendor before the vendor has incurred the costs for which the payments would be attributable.
 - a. If RGRTA can provide sound business reasons for utilizing FTA funds for advance payments, RGRTA may request a written concurrence in writing to the regional office administering the project.
 - b. The FTA Circular indicates adequate security for an advance payment is an essential pre-condition to FTA's concurrence in the use of FTA funds. Therefore, if RGRTA receives concurrence from the FTA to utilize FTA funds for advance payments, RGRTA shall require a Performance Bond.



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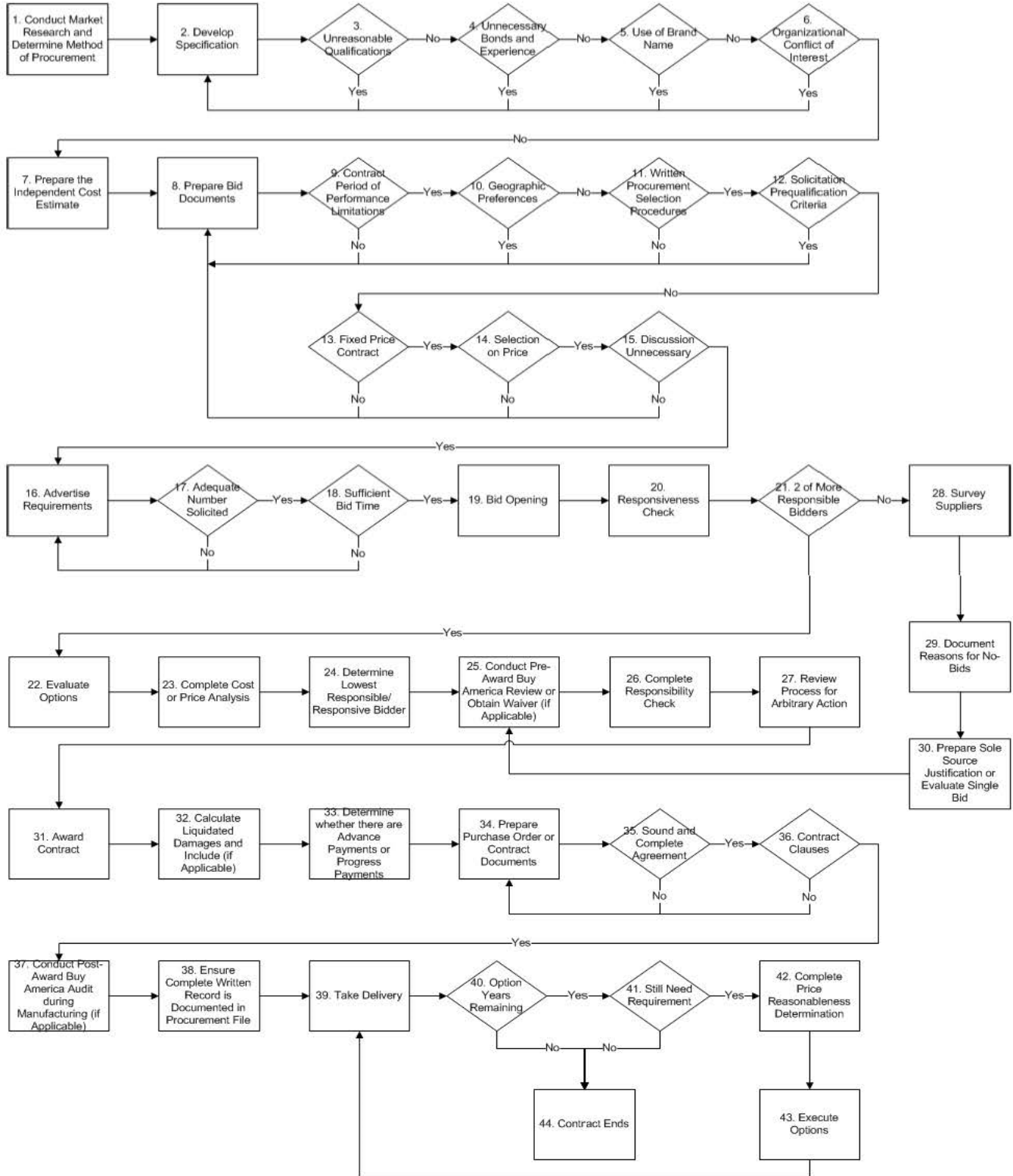
7.2. Progress Payments (Construction Projects)

- A. Progress payments may be used for construction projects, provided that any progress payments are made on the basis of costs incurred and on a percentage of completion method RGRTA shall obtain title to property for which progress payments are made.

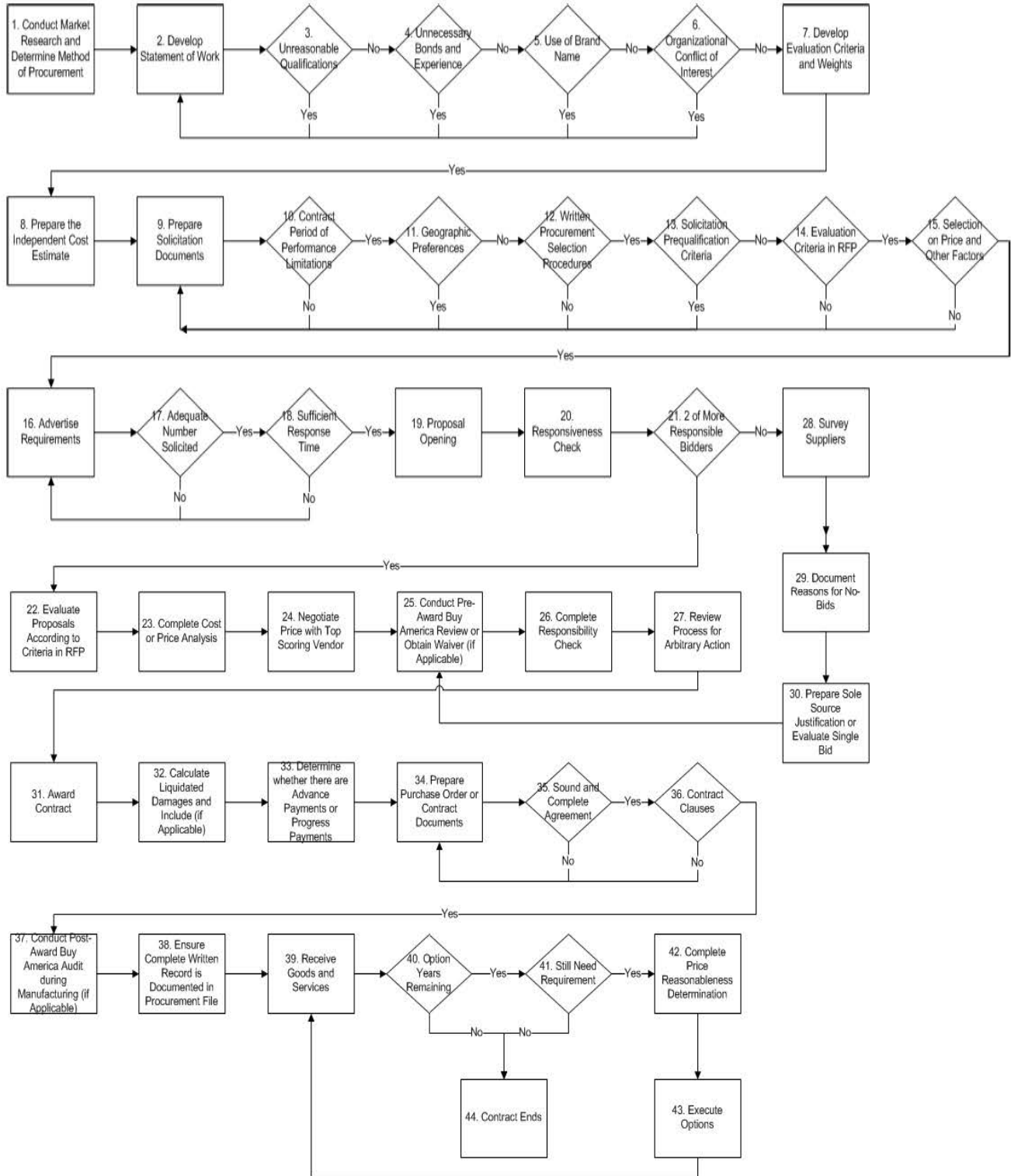
7.3. Progress Payments (Non-Construction Projects)

- A. Progress payments may be used for non-construction projects, provided that RGRTA obtains adequate security for those payments or they are consistent with milestones or actual allowable costs established in the contract.
 - a. Using the percentage of completion method for non-construction projects is impermissible.
 - b. Adequate security for progress payments may include taking title, obtaining a letter of credit, or performance bonds.

SECTION 8 - Procedures for Invitation for Bids



SECTION 9 - Procedures for Request for Proposals





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SECTION 10 - Documentation Requirements by Procurement Type

A. Forms with an * apply only to federally funded procurements

10.1. Internal Forms to Be Completed and Retained in Procurement File

Form Name	IFB	RFP	Sole Source
Conflict of Interest Form for RFP Evaluation Team Members		X	
Independent Cost Estimate (ICE) Form	X	X	
Method of Procurement Decision Matrix	X	X	X
Price/Cost Analysis Form	X	X	X*
Record of Procurement-Related Contact, if any	X	X	
Responsive Submission & Responsible Vendor Form	X	X	X
Single Source Request , if only 1 bid proposal received	X	X	
Sole Source Form			X
Vendor Reference Verification	X	X	

10.2. Forms to Be Completed by the Vendor by Procurement Type

Form Name	IFB	RFP	Sole Source
Buy America Certification - Manufactured Goods *	X	X	
Disadvantaged Business Enterprise (DBE) Forms *	X	X	
Doing Business in Russia Certification	X	X	X
Federal Certification Regarding Lobbying *	X	X	X
Government-Wide Debarment and Suspension Certification *	X	X	
Insurance Form	X	X	
MWBE Required Forms	X	X	
SDVOB Required Forms	X	X	
Vendor Information & Affirmations	X	X	X



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10.3. Additional Forms Required for Rolling Stock Procurements

Form Name	Internal or External
Buy America Certification - Rolling Stock	External
Certificate of Compliance with Bus Testing Requirement	External
DBE Approval Certification for Rolling Stock Purchases	External
Federal Motor Vehicle Safety Standards	External
Pre-Award Buy America Certification	Internal
Post Delivery Buy America Certification	Internal

SECTION 11 - Contract Administration System

11.1. Overview

- A. Contract administration is the oversight and management of contracts made with customers, vendors, or partners. Contract administration includes negotiating the terms and conditions in contracts and ensuring compliance with the terms and conditions, as well as documenting and agreeing on any changes or amendments that may arise during the life of the contract. Further, contract administration includes assuring contract compliance with regulatory and reporting requirements to ensure Authority integrity in meeting established obligations.
- B. RGRTA seeks to effectively and responsibly manage contract creation, execution, monitoring, oversight, and closeout to ensure vendors' performance is in accordance with the terms, conditions, and specifications of their contracts or purchase orders and compliance with applicable Federal, State, and Local requirements.
- C. Ongoing contract administration is performed by both the Contract Administration staff and the Contract Owner.

11.2. Contract Oversight

- A. The Procurement Officer is responsible for contract oversight in through the procurement process:
 - a. Civil Rights and Diversity Programs Policy.
 - b. When NYS Office of the State Comptroller (NYS OSC) approval is required, the Procurement Officer works with the Contract Management Officer to assure accurate and timely submission of the request for pre-approval.
 - c. At the time of a contract change order, the Contract Management Officer assures that all regulatory requirements and contract goals continue to be met.
- B. The Contract Owner is responsible for contract oversight including:
 - a. Assuring that contracted deliverables are being fulfilled consistent with contract scope of work and other requirements.
 - b. Invoiced amounts are consistent with contract rates.

- c. Invoiced amounts are consistent with work performed and/or goods delivered.
 - d. Contracts remain within budget and/or board authorized amounts.
 - e. Vendor performance is periodically evaluated.
 - f. Review of all change order requests in conjunction with the Contract Management Officer
- C. The Contract Management Officer is responsible for:
- a. Monitoring Contract Compliance with the Civil Rights and Diversity Programs Policy. Once a contract has been executed, Contract Management Officer is responsible to ensure that contract regulatory requirements are being met by both the vendor and the Authority. These requirements include:
 - i. DBE goal compliance
 - ii. MWBE goal compliance
 - iii. SDVOB goal compliance
 - iv. Prompt payment procedures
 - v. Insurance
 - b. Depending upon the nature of the contract, either Contract Management Officer or a Project Management Consultant will monitor compliance with vendor/ subcontractor work performance requirements. When a Project Management Consultant is utilized, reports are submitted to the Contract Management Officer.
 - c. When contracts are identified as non-compliant with established DBE/MWBE/ SDVOB goals, Contract Management Officer staff work with the Contract Owner to bring the vendor into compliance.
 - d. Facilitates disputes and/or complaints related to payments or subcontractor utilization submitted by Civil Rights or Diversity subcontractors.

11.3. Regulatory Reporting and Notification Requirements

- A. To ensure the Authority is meeting the established regulatory obligations regarding contract compliance, Contract Management Officers are responsible for submitting regulatory agency reporting requirements. These requirements include:
- a. NYS EEO Workforce Utilization Report
 - b. Public Work Enforcement Fund (PWEF)
 - c. MWBE Utilization Report
 - d. Uniform Report of DBE Awards or Commitments and Payments Form
 - e. SDVOB Activity Quarterly Reports
 - f. Public Authorities Reporting Information System (PARIS)
 - g. Annual Procurement Report for the New York State Department of Economic Development (NYS DED)
 - h. Additional reports are submitted to the Authority's auditors
 - i. Regulatory approval, notifications, and recording of contract award as required:
 - i. New York State Office of the State Comptroller (OSC)
 - ii. New York State Department of Economic Development (DED)
 - iii. New York State Empire State Development (ESD) Contract Compliance Module System (CCM)

11.4. Contract Renewals

- A. Contract renewals are prepared and issued by Contract Administration Staff. Renewals are conditional upon:
 - a. Contract Owner's approval
 - b. Price increases consistent with original contract terms and conditions
 - c. Term limits established in the original contract

11.5. Change Orders

- A. When a contract change order is issued, Contract Management Office staff review the change order to ensure that any reporting and/or notification requirements such as NYS OSC and NYS DED are met as well as ensure that the contract remains compliant with DBE, MBE, WBE, and/or SDVOB goals.

11.6. Contract Termination

- A. The Contract Owner is responsible for making a recommendation to terminate a contract whether for convenience or default. The Contract Owner works with the Manager of Contract Administration and Legal Counsel to determine what is in the best interest of the Authority and proceed with termination if that is the appropriate decision.
- B. If it is determined that a contract should be terminated, the Contract Owner shall notify the Manager of Contract Administration to ensure that all regulatory notifications occur, final reports are submitted, and all contract closeout requirements are met.

11.7. Contract Close Out

- A. Contract close out is predominately the responsibility of the Contract Owner. The Contract Owner is responsible to determine the contract is physically complete. A physically complete contract is one in which all deliverables have been received, inspected, approved, and paid for by the Authority. Depending upon the type of contract, this may include simple goods up to and including completed work, reports, warranty documents, spare parts, punch list items, maintenance bonds, etc.
- B. Once a contract has been determined to be physically complete, the Contract Owner is responsible for final administrative close out. The Contract Owner should document in the project file that all required submittals have been received. Once the contract is physically complete, the Contract Owner notifies the Contract Management Officer.
- C. Once all items have been received and paid for, Contract Management Officer verifies any final payments have been made and submit final regulatory reports if required. Contract close out is also noted in the RGRTA financial system and contract administration databases as well as the NYS Contract Compliance Module.

SECTION 12 - Types of Contracts

12.1. Purchase Order

- A. A Purchase Order (PO) is a basic contractual document for the purchase of deliverables.

- a. A PO usually consists of the vendor's name/address, a description of the item, quantity, cost per item, and total cost
- b. RGRTA's standard terms for POs shall be posted on the RGRTA website.

12.2. Fixed Price Contract

- A. A general compensation arrangement which places the risk of performance for a lump sum on the vendor, regardless of the actual costs incurred by the vendor.
- B. The only allowable adjustments to the lump sum contract price are those arising from authorized changes in scope of services or changes in specifications.
- C. This type of contract is appropriate for acquiring deliverables which can be clearly defined with either performance/functional specifications or design specifications where there are no substantial uncertainties relating to cost, performance, or schedule.

12.3. Cost Plus Fixed Fee Contract

- A. A general compensation arrangement which requires RGRTA to pay the vendor a fixed fee plus all allowable actual costs (as established by predetermined cost principles and rates) provided such costs and fee do not exceed the final negotiated contract price, as incurred by the vendor in performing the agreed to scope of work.

12.4. Time and Materials (T&M) Type Contract

- A. RGRTA shall use time and material type contracts only after a determination that no other type of contract is suitable, and if the contract specifies a ceiling price that the vendor shall not exceed except at its own risk.

12.5. Revenue Contract

- A. A revenue contract provides access to public transportation assets for the primary purpose of either producing revenues or creating business opportunities with the use of RGRTA property.
- B. RGRTA has broad latitude in determining the extent and type of competition appropriate for a particular revenue contract. Nevertheless, to ensure fair and equal access to RGRTA property and to maximize revenue derived from such property, RGRTA should conduct its revenue contracting as follows:
 - a. Limited Contract Opportunities: If there are several potential competitors for a limited opportunity (such as advertising space on the side of a bus), then RGRTA should use a competitive process to permit interested parties an equal chance to obtain that limited opportunity.
 - b. Open Contracting Opportunities: If however one party seeks access to a public transportation asset, and RGRTA is willing and able to provide contracts or licenses to other parties similarly situated, then competition would not be necessary because the opportunity to obtain contracts or licenses is open to all similar parties.

12.6. Cost-Plus-Percentage of Cost

- A. Cost plus a percentage of cost is prohibited by the FTA and shall not be used by RGRTA regardless of funding source.

SECTION 13 - Required Elements of Formal Procurements/Contracts

- A. To ensure a sound and complete agreement, formal procurements or contracts executed shall include the following items. Those noted with an asterisk (*) must be included if Federally funded.

13.1. *Bonding Requirements**

- A. Specific bonding requirements, if any, may vary by procurement type.
- B. See Section 6 for more information.

13.2. *Buy America**

- A. The FTA has implemented 49 CFR Part 661–Buy America Requirements and 49 CFR part 663–Pre-Award and Post Delivery Audits of Rolling Stock Purchases to support U.S. jobs and the U.S. manufacturing industry.
- B. As an FTA grantee, RGRTA is required to comply with Buy America requirements when utilizing federal funds for construction contracts, rolling stock procurements and acquisition of goods. Therefore, all contracts for these items shall include Buy America Certifications and Clauses.
- C. Vendors shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating 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.
 - a. General waivers are listed in 49 CFR 661.7 and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases made with capital, operating or planning funds.
 - b. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content.
- D. For all federally-assisted procurements of steel, iron, or manufactured products, vendors shall submit a Certificate of Compliance with Section 165(a). Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive.
- E. For all federally-assisted procurements of buses, other rolling stock and associated equipment, vendors shall submit a Certificate of Compliance with Section 165(b)(3). Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive.

13.3. *Changes Clause*

- A. All construction contracts shall include a changes clause which gives RGRTA the unilateral right to order changes in the contract work during the course of performance, and the vendor the duty to proceed with the work as changed upon receipt of the change order, assuming that the change is within the scope of the contract.
 - a. The “Changes” clause must contain language deferring the pricing of the changed work until some later time, while obligating the vendor to proceed with the work and resolve the issue of compensation later. Failure to reach an agreement on compensation would be a dispute to be processed according to the procedures of the Disputes clause of the contract.

13.4. Contract Term/Period of Performance

- A. RGRTA shall not enter into any contract for rolling stock or replacement parts for rolling stock with a period of performance exceeding five (5) years, inclusive of options.
- B. Any other contracts that exceed five (5) years, inclusive of options, shall require approval of the Board of Commissioners.
- C. Clauses A & B of this section do not apply to construction contracts or to leases of real property for the life of a transit asset to be constructed on such property (which period will extend beyond five years to fulfill the statutory requirements that RGRTA has “satisfactory continuing control”).

13.5. Default Clauses

- A. All contracts shall advise vendor that the following scenarios will be grounds for RGRTA to declare that they have defaulted on the contract:
 - a. Failure to perform in a timely and satisfactory manner any of its obligations under the agreement
 - b. If any representation or warranty made by the vendor, either in its response to the event or in its response to the agreement, proves to have been false or misleading in any respect.
 - c. Failure by the Vendor to observe and perform any covenant, condition or agreement on its part to be observed or performed under the agreement unless RGRTA agreed in writing to an extension of such time to perform prior to its expiration.

13.6. Disputes Clause

- A. All contracts shall include a clause establishing that it shall be governed by, interpreted, construed, and enforced under the substantive laws of the State of New York, and venue shall be in the County of Monroe, Rochester, New York for any legal action or dispute resolution.
- B. In accordance with good administrative practice and sound business judgment, RGRTA will be responsible for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.
 - a. These standards do not relieve RGRTA of any contractual responsibility under its contracts.
 - b. Violations of the law will be referred to the State or Federal authority having proper jurisdiction.

13.7. Federal Transit Administration Required Clauses*

- A. When federal funds will be spent on a contract, the applicable FTA Clauses shall be attached.

13.8. Insurance Requirements

- A. Procurement Officers shall include insurance requirements in all formal procurements to protect the interests of RGRTA.
- B. The type and level of insurance required by RGRTA shall be posted with each Event.
- C. Any modifications to these requirements shall be determined by the Procurement Officer with guidance from RGRTA’s Manager of Contract Administration.

13.9. Liquidated Damages*

- A. Liquidated damages may be provided for if RGRTA reasonably expects to suffer damages through delayed contract completion. The rate and measurement of liquidated damages must be calculated to reasonably reflect the Authority's actual reasonably anticipated damages that are foreseeable should the contract requirements not be met and must be specified in both the solicitation and the contract. The assessment for damages may be established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate. The procurement record should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered shall be credited to the project account. If FTA funds were used in connection with the project, FTA may permit other uses of the liquidated damages.
- B. Liquidated damages assessment in applicable RGRTA contracts shall be at a specific rate per day for each day of overrun and this daily rate must be specified in the specific contract. For Federally-funded contracts, any damages recovered must be credited to the project involved unless FTA permits otherwise.

13.10. Notice of Policies

- A. In compliance with New York State Finance Law §139-j, which establishes restrictions on contacts during the procurement process, the Event shall provide the name, title, and contact information for RGRTA's designated point of contact for all inquiries related to the Event.
- B. Notification of FTA participation (if applicable)
- C. Federal statutory and regulatory requirements (if applicable)
- D. Required bidder qualifications

13.11. New York State Required Clauses

- A. The Standard Clauses for New York State Contracts shall be included in all contracts.

13.12. Payment Provisions

- A. All contracts shall advise the vendor of RGRTA's Prompt Payment Policy.

13.13. Remedies for Breach of Contract

- A. Contracts shall provide an opportunity to cure in the event of a breach or default of contract.

13.14. Requirements for the Use of Options*

- A. An option is a unilateral right in a contract by which, for a specified time, RGRTA may elect to purchase additional equipment supplies, or services called for by the original contract, or may elect to extend the term of the original contract. If RGRTA elects to use options, the following requirements apply:
 - a. Evaluation of Options: The option quantities or periods contained in the Vendor's bid or offer must be evaluated to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement. (To be eligible for

Federal funding, options must be evaluated as part of the price evaluation of offers or must be treated as sole source awards).

- b. Exercise of Options: The exercise of an option must be in accordance with the terms and conditions of the option stated in the initial contract awarded. An option may not be exercised unless it is determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised. The option price must be determined to be fair and reasonable, and a written justification of this determination must be included in the procurement file.

13.15. Schedule of Events

- A. To provide vendors with RGRTA's best estimate of the procurement timeline, the Event shall include the following dates:
 - a. Pre-bid/pre-proposal meeting (if applicable)
 - b. Deadline for written questions
 - c. Bid opening date, time, and location (IFB only)
 - d. Proposal deadline time, and date (RFP only)

13.16. Short-Term Extension

- A. In the event a replacement contract has not been issued, any contract let and awarded hereunder by RGRTA may be extended unilaterally by RGRTA for an additional period of up to three (3) months upon notice to the vendor with the same terms and conditions as the contract including, but not limited to prices and delivery requirements.

13.17. Termination Clauses

- A. All contracts shall include, at a minimum, clauses for Termination for Convenience and Termination for Default. Additional termination clauses may be added as State and Federal rules require.

SECTION 14 - Written Policies & Standards of Conduct

- A. Covered persons shall be aware of their role and applicability in the following:

14.1. Code of Ethics

- A. Maintaining high ethical standards is of utmost importance to RGRTA as doing so is central to obtaining and keeping public trust and confidence. RGRTA's Code of Ethics establishes guidelines for ethical responsibility and accountability. It is available in Policy Manager.

14.2. Freedom of Information Law (FOIL)

- A. RGRTA will, in accordance with its published rules and applicable laws and regulations, make available for public inspection all of its records and shall provide copies of requested records except to the extent that disclosure of a record is not required based on an exclusion set forth in the Freedom of Information Law (FOIL) Policy. The current policy is available in Policy Manager.

14.3. Procurement Code of Conduct

- A. In addition to those items covered in the Code of Ethics, all covered persons shall adhere to the following code of conduct in connection with all aspects of the procurement process, including without limitation RGRTA's use, awarding, monitoring and reporting of procurement contracts:
 - a. Consider the interests of RGRTA first;
 - b. Give all bidders equal consideration and assurance of unbiased judgment in determining whether their proposed product(s) or service(s) meet the published specifications;
 - c. Accord a prompt and courteous reception to all who call on legitimate RGRTA business;
 - d. Never discriminate by dispensing special favors or privileges to anyone, whether or not for remuneration;
 - e. Make no statements or promises of any kind that another party might construe as being binding on RGRTA and always make clear in your discussions that you have no individual authority to obligate RGRTA in any way;
 - f. Engage in no business with RGRTA, directly or indirectly, which is inconsistent with the conscientious performance of assigned duties or in conflict with RGRTA's written policies;
 - g. Maintain the confidentiality of all information that pertains to RGRTA except to the extent you have been specifically authorized to make the information public or are required to do so by a court or regulatory authority with jurisdiction.

14.4. Protest Policy and Procedure

- A. RGRTA shall adhere to the Protest Policy and Procedure, approved as part of this manual, to handle and resolve disputes from interested parties relating to its procurements.
- B. The Protest Policy and Procedure shall be posted on the RTS website and within each Event.

14.5. Prompt Payment Policy

- A. In accordance with Section 2880 of the New York Public Authorities Law, RGRTA has developed rules and regulations detailing its prompt payment policy.
- B. The Prompt Payment Policy shall be posted on the RTS website.

14.6. Civil Rights and Diversity Programs Policy

- A. RGRTA promotes and assists participation by firms classified under the Civil Rights and Diversity Programs Policy and to facilitate a fair share of the awarding of contracts thereto.



PROTEST POLICY AND PROCEDURE

APPENDIX A TO THE PROCUREMENT MANUAL

Next Review: Annual
Owner: Governance Committee

Accepted by the Governance Committee on August 4, 2022, whose Meeting Minutes were Approved by the full Board of Commissioners on September 22, 2022.

SECTION 15 - Protest Policy and Procedure (Appendix A)

15.1. Overview

- A. RGRTA's policy and procedure for the administrative resolution of protests is set forth herein. The Federal Transit Administration (FTA) Third Party Contracting Circular addresses protests where federal funds are involved. The current version of the FTA Circular is available at www.transit.dot.gov/regulations-and-guidance. FTA will only review protests regarding matters that are primarily of Federal concern.

15.2. Submittal Procedures

- A. An interested party wishing to file a protest shall send a written submission to RGRTA's Chief Financial Officer (CFO) by email at protest@myrts.com. A PDF copy of the protest and supporting documents shall be included in the email.
- B. The protest shall include, at a minimum:
 - a. The name and address of the protesting party and its relationship to the procurement sufficient to establish that the protest is being filed by an interested party;
 - b. Identity of the contact person for the protesting party, including name, title, address, telephone, and email address. RGRTA will send all documents and notices concerning the protest, including the decision on the protest to the email address provided by the protesting party. The protesting party shall be deemed to have received such documents and notices when RGRTA sends them to the email address provided;
 - c. Identification of the Event title and Event number in the Event Document;
 - d. A description of the nature of the protest, referencing the portion(s) of the solicitation involved. Protesting party shall include all supporting facts, documents and data with the protest;
 - e. Identification of the provision(s) of any law, regulation, or other governance upon which the protest is based, including specific citations and description of how the law, regulation or governance was violated;
 - f. A statement of the specific relief requested; and
 - g. A notarized affirmation by the protestor (if an individual) or by an owner or officer of the protestor (if not an individual) as to the truth and accuracy of the statements made in the protest submittal.

15.3. Protest of the Solicitation Process

- A. A protest of the solicitation process is a protest related to the technical scope or specification, terms, conditions, or form of a solicitation or process relating thereto.
- B. This type of protest shall be filed no later than ten (10) calendar days prior to the submission deadline set in the solicitation document or ten (10) calendar days after the interested party receives the solicitation document from the Procurement Officer, whichever occurs first. If an interested party obtains the solicitation document from the Procurement Officer within ten (10) days of the submission deadline in the solicitation document, the interested party shall submit a protest of the solicitation process within forty-eight (48) hours of receipt of the solicitation document from the Procurement Officer or forty-eight (48) hours prior to the submission deadline identified in the solicitation document, whichever occurs first. If an interested party obtains the solicitation document from the Procurement Officer less than forty-eight (48) hours prior to the submission deadline identified in the



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solicitation document, the interested party shall be deemed to have waived their right to file a protest of the solicitation process.

- C. For protests of the solicitation process, the CFO may choose to extend the solicitation process if such extension is necessary to afford an adequate opportunity to render a full and accurate determination on the protest.
- D. A written decision on protests of this type shall be provided to all interested parties prior to the submission deadline set in the solicitation document.
- E. Should the protest be upheld in whole or in substantial part, the CFO shall issue instructions to remedy issues relating to the protest, which may include (1) amending the solicitation to correct the document or process accordingly and extend the deadline; or (2) canceling the solicitation in its entirety.

15.4. Protest of the Evaluation Process

- A. All interested parties will be notified by email of any rejection of their response to a solicitation document and any recommendation of award (“The Notification”). Such recommendation of award shall be made by Agency staff to RGRTA’s Chief Executive Officer (CEO) and the Board of Commissioners (if applicable) for ultimate approval of the award. Any proposer may protest the rejection or recommended award on one or more of the following grounds:
 - a. The recommended awardee does not meet the requirements of the solicitation;
 - b. The bid or proposal recommended for acceptance does not meet the criteria of the solicitation or award;
 - c. The interested party objects to RGRTA declaring their response to the solicitation document non-responsive or RGRTA declaring them non-responsible;
 - d. The evaluation process conducted by RGRTA is improper, illegal, or the decision to recommend award is arbitrary and capricious.
- B. The protest must be received by RGRTA no later than five (5) calendar days after the date the notification is sent.

15.5. Processing of Protests

- A. The Procurement Officer shall notify all interested parties of the receipt of a protest, the type of protest, and nature of the protest within a reasonable time of the filing.
- B. The Procurement Officer shall conduct the administrative processing of protests filed with RGRTA and provide all information submitted by the protesting party to the CFO. If the solicitation document contemplates using federal funds to pay for the resulting deliverables, in whole or in part, the Procurement Officer shall notify the regional office of the Federal Transit Administration (FTA) of the filing of a protest and keep them informed of its status.
- C. In determining a protest, the CFO shall be authorized to take appropriate measure, which in their discretion would ensure compliance with the provisions and purposes of the procurement manual.

15.6. Evaluation of Protests

- A. The CFO may decide a protest solely upon the written submission provided by the protesting party. Additional or supplemental materials may only be submitted at the request of, or with the permission



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of, the CFO. Failure to submit information requested by the CFO in the time allotted by the CFO shall result in a denial of the protest. The CFO may offer the protesting party the opportunity to discuss the matter in person or telephonically.

- B. The CFO shall render a decision of all protests within ten (10) business days after receipt of a protest and shall render one of the following determinations:
 - a. Protest is overruled;
 - b. Protest is substantiated. In such cases, the CFO shall issue instructions to remedy issues relating to the protest; or
 - c. Procurement activity is suspended until further written notification by the CFO.
- C. The decision shall be in writing, shall provide, at a minimum, a general response to each material issue raised in the protest and shall be signed by the CFO. The decision shall be sent to the protesting party at the email address provided with the protest.
- D. A notice of the decision shall be provided to all interested parties.
- E. The CFO's decision is the Authority's final determination of the dispute.
- F. The protesting party may file an appeal of the CFO's decision pursuant to Federal law or FTA rules. In accordance with Federal law, review of protests by the FTA may be requested only after exhaustion of all administrative remedies with RGRTA and are limited to the following:
 - a. Violations of Federal law or regulation; and/or
 - b. Violations of RGRTA's protest procedures for failure to review a complaint or protest in accordance therewith.
- G. Protesting party shall provide a copy of the protest to RGRTA simultaneously with its submission to FTA.

15.7. Record of Protest

- A. The Procurement Officer shall retain all documents pertaining to the protest in the procurement record. The procurement protest file shall include reasonable and adequate documentation of the protest and outcome of the protest.
- B. The protest file shall include the following:
 - a. The protest, including supporting documentation; and
 - b. Record of determination of protest timeliness.



PROMPT PAYMENT POLICY

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SECTION 16 - Prompt Payment Policy (Appendix B)

16.1. Requesting a Payment

- A. Vendor may submit an invoice only after receiving a Purchase Order from RGRTA and providing the deliverables. A proper invoice submitted shall be required to initiate any payment, except where the contract provides that the vendor will be paid at predetermined intervals.

16.2. Schedule for Making a Payment

- A. RGRTA will make payment on the properly submitted invoice within thirty (30) days of receipt of a complete and proper invoice. Interest will be paid when prompt payment is not made and shall be computed at the overpayment rate set by the Commissioner of Taxation and Finance

16.3. Conditions Which Justify an Extension of the Payment Date:

- A. In the opinion of RGRTA, the following conditions may reasonably justify extension of the date by which contract payment must be made:
 - a. When, in accordance with specific statutory or contractual provisions, payment must be preceded by an inspection period or by an audit to determine the resources applied or used by a vendor in fulfilling the terms of the contract
 - b. When the necessary governmental appropriation required authorizing payment has yet to be enacted
 - c. When the invoice must be examined by the federal or state government prior to payment
 - d. When RGRTA has notified the vendor within fifteen (15) calendar days after receipt of an invoice at its designated payment office that there are defects in the delivered deliverables; defects in the invoice; or suspected improprieties of any kind shall prevent the commencement of the time period for computing interest.
- B. In the event RGRTA fails to notify a vendor of such defects within fifteen (15) calendar days of receiving the invoice, the number of days allowed for payment of a properly corrected invoice will be reduced by the number of days between the fifteenth (15th) day and the day that notification of said defect was actually transmitted to the vendor. If RGRTA, in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which the contract payment must be made in order for RGRTA not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

16.4. Inapplicability

- A. These procedures shall not apply to payments due and owing by RGRTA under New York's Eminent Domain Procedure Law; and as interest allowed on judgments rendered by a court pursuant to any provision of law other than those contained in this procedure; and to the Federal government, to any state agency or its instrumentalities, to any duly constituted unit of local government, including but not limited to counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities, to any other public authority or public benefit corporation, or to any employees of the foregoing when acting in, or incidental to, their public employment capacity; and in situations where RGRTA exercises a legally authorized set-off against all or part of the payment due the vendor.



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SECTION 17 - Civil Rights and Diversity Programs Policy (Appendix C)

17.1. Civil Rights and Diversity Programs

- A. Federal and State agencies have enacted programs to promote equality of economic opportunities, ensure nondiscrimination in the award and administration of contracts, and encourage and support eligible businesses to play a greater role in the economy.
- B. RGRTA is mandated to comply with the Federal Transit Administration's (FTA) Disadvantaged Business Enterprise (DBE), New York State's Minority and Women's Business Enterprise (MWBE), and Service-Disabled Veteran-Owned Business (SDVOB) programs. Each program has established goals which are applied to procurements conducted utilizing federal and state assistance respectively. RGRTA refers to these programs collectively as Civil Rights and Diversity Programs.
- C. The Manager of Contract Administration (MCA) is the liaison officer for each of these programs, and as such, is responsible for oversight and implementation of these programs.
- D. Per Federal and New York State regulations, contracts subject to DBE goals may not have MWBE nor SDVOB goals established. Contracts not subject to DBE goals may have either or both MWBE and SDVOB goals set based on contract value and the availability of certified firms.
- E. It is RGRTA's policy to comply with these regulations in the administration of its procurement and contract management activities.

17.2. Disadvantaged Business Enterprise (DBE) Programs

- A. Federal regulation 49 CFR Part 26 establishes the regulatory requirements of the DBE program. The program is overseen by FTA's Office of Civil Rights.
- B. DBE goal plans are prepared and submitted to the Regional FTA Civil Rights Officer for approval on a triennial basis. Triennial goals are based on the anticipated federally-funded procurements in the upcoming three-year period and the availability of certified DBE firms in the areas of the anticipated procurements.
 - a. Upon approval, the goal plan establishes RGRTA's DBE goal on the combined value of all federally-funded procurements, excluding rolling stock, for the subsequent three federal fiscal years (October - September).
- C. As a federally-funded procurement is developed, the MCA assesses the event for a DBE goal based upon the budget, scope of work, availability of DBE firms, and RGRTA's achievement toward its DBE goal.
 - a. DBE firms must be certified by the Unified Certification Program (UCP) in the State in which the Authority / Agency operates. RGRTA utilizes firms certified by the New York State UCP
- D. When responses are received, the MCA assesses each response to determine its compliance with DBE program requirements. Responses may be compliant either through meeting the established DBE goal or through adequately documenting good-faith efforts to do so.
 - a. Assessments are based on the review of the documentation included with the vendor's response. Responses not meeting the goal nor showing adequate good-faith efforts may be considered non-responsive.



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- E. RGRТА staff are responsible for monitoring ongoing compliance of active contracts with DBE goals. Monitoring responsibilities include but are not limited to assuring that:
 - a. Prompt payment is made to all subcontractors both DBE and non-DBE;
 - b. DBE certifications are current at the time of contract award;
 - c. DBE firms' contracted responsibilities are consistent with their certification;
 - d. DBE firms are performing on the contract consistent with the vendor's proposal;
 - e. If a DBE subcontractor is replaced, assuring that good-faith efforts are taken to find a certified DBE replacement; and
 - f. Assuring that the DBE goal established on the contract is met regardless of change orders.
- F. On a semi-annual basis, RGRТА staff are responsible to submit the Uniform Report of DBE Awards or Commitments and Payments Form to FTA's Civil Rights Division. The report includes:
 - a. DBE participation commitment in contracts awarded during the reporting period;
 - b. DBE participation achieved during the reporting period on active/ongoing contracts; and
 - c. Actual DBE participation achieved in contracts completed during the period.

17.3. *Minority and Women's Business Enterprise (MWBE) Program*

- A. New York State Executive Law Article 15-A establishes the regulatory requirements of New York State's MWBE program. The program is overseen by Empire State Development's (ESD) Division of Minority and Women's Business Development (DMWBD).
- B. Contracts for deliverables in any of the eligible categories as defined by ESD, with a dollar value of \$25,000 or more during the initial term of the agreement and \$100,000 or greater for construction contracts for which no DBE goal is applicable are subject to MWBE goals as established by New York State.
- C. On an annual basis, the MCA prepares and submits an MWBE Goal Plan to the DMWBD for approval. The goal plan assesses all anticipated procurements for the coming State Fiscal Year for applicability of MWBE Goals. Those procurements which are exempted, excluded, or waived are removed from the goal calculation. The goal plan establishes the dollar threshold of procurements to which the MWBE goal shall be applied.
- D. New York State may reset the MWBE goal at the conclusion of a New York State Disparity Study. The Disparity Study is conducted every five years in order "to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing, and able to perform state contracts for commodities, services, and construction, and the number of such vendors actually engaged to perform such contracts."
- E. Prior to releasing an event, the Procurement Officer may request an in-year exclusion (IYE) (pre-waiver) if it is believed that there are no or limited subcontracting opportunity(ies) or no or limited availability of certified MWBE firms to participate in the resulting contract.
 - a. Requests for IYE's are assessed by the MCA and if there is concurrence, the request is forwarded to the ESD Agency Services Analyst assigned to RGRТА for approval. A request for an IYE is required anytime a goal below the State established percentage is requested.



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- F. When responses are received, the MCA assesses each response to determine its compliance with Article 15-A. Responses may be compliant either through meeting the established MWBE goal or through adequately documenting good-faith efforts.
 - a. Assessments are based on the review of documentation included with the vendor's response. Responses not meeting the goal, nor showing adequate good-faith efforts, may be considered non-responsive.
 - b. MWBE firms must be certified by ESD and listed in the ESD Directory of Certified Firms with a current, active certification at the time of contract award.
 - c. If a response which does not meet the MWBE goal but does demonstrate adequate good-faith efforts is selected for award, RGRTA must prepare and submit a waiver request to the Executive Chamber for approval. Waiver requests must receive approval from New York State before an award can be made. Waiver requests are required anytime a goal below the State established percentage is desired.
- G. Contract Management staff are responsible for monitoring ongoing compliance of active contracts with MWBE goals. Monitoring responsibilities include but are not limited to assuring that:
 - a. Prompt payment is made to all subcontractors both MWBE and non-MWBE;
 - b. MWBE certifications are current at the time of award;
 - c. MWBE firms' contracted responsibilities are consistent with their certification;
 - d. MWBE firms are performing on the contract consistent with the vendor's proposal; and
 - e. Contracts are achieving the MWBE goal established on the contract regardless of change orders.
- H. When contracts are awarded which include an MWBE subcontractor, RGRTA must provide a written notification of contract award through the prime contractor to the subcontractor. Notification must be provided prior to commencement of the contract.
- I. On a quarterly basis, RGRTA submits the MWBE Quarterly Utilization Reports to ESD's DMWBD and posts an update of the NYS Unified MWBE Approved Utilization Plan/Waivers Form on the RTS website. The form identifies MWBE utilization plans and waivers approved during the prior two-year period.

17.4. EEO Workforce Utilization Reporting

- A. New York State Executive Law Article 15-A establishes the regulatory requirements of New York State's EEO Workforce Utilization Reporting requirements. The reporting requirements are overseen by Empire State Development's (ESD) Division of Minority and Women's Business Development (DMWBD).
- B. EEO Workforce Utilization Reports must be submitted to NYS by prime and subcontractors for contracts for deliverables in any of the eligible categories as defined by ESD, with a dollar value of \$25,000 or more during the initial term of the agreement and \$100,000 or greater for construction contracts for which no DBE goal is applicable. RGRTA is notified by NYS when reports are not submitted in a timely manner.

17.5. Service-Disabled Veteran-Owned Business (SDVOB) Program

- A. New York State Executive Law Article 17-B establishes the regulatory requirements of New York State's SDVOB program. The program is overseen by the New York State Office of General Services' (NYS OGS) Division of Service-Disabled Veteran Business Development (DSDVBD).
- B. Contracts for deliverables in any of the eligible categories as defined by the DSDVBD, with a dollar value of \$25,000 or more during the initial term of the agreement and \$100,000 or greater for construction contracts for which no DBE goal is applicable are subject to SDVOB goals as established by New York State.
- C. On an annual basis, the SDVOB Liaison Officer prepares and submits a SDVOB Goal Plan to the DSDVBD for approval.
- D. In addition to identifying the Authority's procurement strategy, outreach efforts, and strategies to achieve its goal, the goal plan outlines the anticipated procurements for the coming State Fiscal Year for applicability of SDVOB Goals. Those procurements which are exempted, excluded, or waived are removed from the goal calculation. The goal plan establishes the dollar threshold of procurements to which the SDVOB goal shall be applied. SDVOB goals may be applied in addition to MWBE goals on an event.
- E. Prior to releasing an event, the Procurement Officer may request an IYE if it is believed that there are no or limited subcontracting opportunity(ies) or no or limited availability of certified SDVOB firms to participate in the resulting contract.
 - a. Requests for IYE's are assessed by the MCA and if there is concurrence, the request approved. A request for an IYE is required anytime a goal below the State established percentage is requested.
- F. When responses are received, the MCA assesses each response to determine if it is compliant with Article 17-B. Responses may be compliant either through meeting the established SDVOB goal or through adequately documenting good-faith efforts.
 - a. Assessments are based on the review of the documentation included with the contractor's response. Responses not meeting the goal nor showing adequate good-faith efforts may be considered non-responsive.
 - b. SDVOB firms must be certified by the DSDVBD and listed in the SDVOB Directory of Certified Firms at the time of contract award.
 - c. If a response which does not meet the SDVOB goal but does demonstrate adequate good-faith efforts is selected for award, RGRTA must prepare a Waiver Request documenting the good-faith efforts made by the vendor. Waiver Requests are reviewed and approved by the MCA.
- G. RGRTA staff are responsible for monitoring ongoing compliance of active contracts with SDVOB goals. Monitoring responsibilities include but are not limited to assuring that:
 - a. Prompt payment is made to all subcontractors both SDVOB and non-SDVOB;
 - b. SDVOB certifications are current at the time of award;
 - c. SDVOB firms' contracted responsibilities are consistent with their certification;
 - d. SDVOB firms are performing on the contract consistent with the vendors proposal; and
 - e. Contracts are achieving the SDVOB goal established on the contract regardless of change orders.



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- H. On a quarterly basis, RGRTA submits the SDVOB Quarterly Utilization Reports to the DSDBVD and posts an update of the NYS Unified SDVOB Approved Utilization Plan/Waivers Form on the RTS website. The form identifies SDVOB utilization plans and waivers approved during the prior two-year period.

17.6. Commitment to Utilize Disadvantaged Business Enterprises

- A. In accordance with the requirements of the United States Department of Transportation (USDOT/DOT) 49 CFR, Part 26, dated March 4, 1999, the Regional Transit Service (RTS) is committed to the development and implementation of an effective and Federally compliant Disadvantaged Business Enterprise (DBE) Program.
- B. The Disadvantaged Business Enterprise Program applies to all USDOT-assisted RTS procurement activities where reasonably feasible. This will include all USDOT-assisted capital, construction and professional service contracts.
- C. The primary objective for establishing a DBE Program is to facilitate the participation of firms owned and controlled by known socially and economically disadvantaged individuals in obtaining procurement contracts. To this end, RGRTA's goals include the following:
 - a. To assist firms owned and/or controlled by socially and economically disadvantaged individuals so they may equitably compete for contracts and subcontracts;
 - b. To assure that all contracts and procurements are administered without discrimination on the basis of race, color, national origin, or gender; and
 - c. To assist firms owned and/or controlled by socially and economically disadvantaged individuals in overcoming barriers to program participation.
- D. RTS has received financial assistance from the United States Department of Transportation, and, as a condition of receiving this assistance, RTS has signed an assurance that it will comply with 49 CFR, Part 26.
- E. It is the policy of the RTS to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. RTS' DBE Program was established to meet the following objectives:
 - a. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
 - b. To create a "level playing field" on which DBE's can compete fairly for DOT-assisted contracts;
 - c. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
 - d. To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs;
 - e. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
 - f. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.
- F. RGRTA has goal plan approved by the Transit Administration Review every three years. The current goal plan is posted on the RTS website.

17.7. Obtaining Certification as a USDOT-certified DBE

- A. The New York Unified Certification Process (UCP) provides "one stop shopping" to applicants for DBE certification within New York State. This DBE certification will be honored by all participating New York State UCP agencies.

- B. To obtain information on DBE Certification, please contact the New York State Department of Transportation at nysdot.gov or 518-457-3180.
- C. Please direct questions or comments related to RTS' DBE Program and Policies to our DBE Liaison Officer at the Procurement Department.

17.8. Commitment to Utilize NYS Minority & Woman-Owned Business Enterprises

- A. In accordance with the 2010 Business Diversification Act amending Article 15-A of New York State Executive Law §313 ("Article 15-A"), state agencies, authorities, boards, and commissions are required to prepare, pursuant to 5 NYCRR Parts 140-145, a Master Goal Plan to submit to the Director of the Division of Minority and Woman's Business Development ("the Division"). Regional Transit Service (RTS) is committed to the development and implementation of an effective and New York State compliant Minority and Woman-Owned Business Enterprises (MWBE) program.
- B. Certain transactions are considered "Exempt Transactions" and are not subject to MWBE program standards. These exempt transactions include procurements less than \$25,000 for labor, services, supplies, equipment and materials or any combination of the foregoing, and contracts less than \$100,000 for acquisition, construction, demolition, replacement, major repair, renovation, or improvement of real estate. In addition, staff benefits, debt service, OGS centralized services and single/sole source contracts are considered exempt from the MWBE program.
- C. MWBE program standards apply to all RTS procurement activities not assisted by the United States Department of Transportation where reasonably feasible. The regulations adhered to by the RTS' federally compliant Disadvantaged Business Enterprise program supersede those imposed by Article 15-A with regard to all USDOT-assisted capital, construction and professional service contracts. These contracts are also considered exempt transactions.
- D. The primary objective for establishing an MWBE program is to increase the participation of firms owned and controlled by minority and women-owned business in obtaining procurement contracts not involving exempt transactions. To this end, RTS' goals include the following:
 - a. To assist firms owned and/or controlled by MWBEs so they may equitably compete for contracts and subcontracts;
 - b. To assure that all contracts and procurements are administered without discrimination on the basis of race, color, national origin, or gender; and
 - c. To assure that all vendors and subcontractors utilized by the Authority in connection with Non-Exempt Procurements undertake or continue existing programs of affirmative action to ensure that certified MWBE firms are afforded equal opportunities without discrimination.

17.9. Obtaining Certification as a NYS Certified MBE or WBE

- A. The New York State Empire State Development Division of Minority and Women's Development (DMWBE) provides certification for MBE and WBE firms. The criteria and application process can be found on their website at: <http://www.esd.ny.gov/MWBE/Certification.html>
- B. Please direct questions or comments related to RTS' MWBE Program and Policies to our MWBE Liaison Officer at the Procurement Department