



**STATE OF TENNESSEE**  
**PROCUREMENT COMMISSION**  
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- AGENDA -  
**PROCUREMENT COMMISSION MEETING #038**  
**THURSDAY, April 15, 2021, 2:00 p.m.**  
**VIA WEBEX**

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**MINUTES OF FEBURARY 18, 2021  
MEETING**

**MINUTES**  
**PROCUREMENT COMMISSION MEETING #037**  
**THURSDAY, February 18, 2021, 2:00 p.m.**  
**WEBEX**

**Members in Attendance:**

Jason Mumpower, Comptroller of the Treasury; Christi W. Branscom, Commissioner, Department of General Services; Mike Perry, Chief Procurement Office; Butch Eley, Commissioner, Department of Finance and Administration

**Others in Attendance:**

Buddy Lea, Christy Allen, Bryan Chriske, Paul Krivacka, Jenny Young, Randy Dean, Davis Nwankwo, Robin Upchurch, Shannon Mohundro, Karen Conway, Debi Moss, Amanda Dean, Chris Salita, Darren Foster, Jessica Starling, Joyanna Brassfield, Laura Hartsfield, Leonard Chadwick, Lorraine Lassourreille, Maya Cacavas, Seannalyn Brandmeir, Tamara Byrd, Terry Mason, Toni Stuart, Tony Bybee, Trey Norris, Veronica Peters

**I. Call to Order:**

Commissioner Branscom called the meeting to order and recognized that a quorum of Procurement Commission ("Commission") members was present. Commissioner Branscom read the following Statement of Necessity:

This meeting is being held pursuant to Tennessee Code Annotated, Section 8-44-108(b)(2) and Governor Lee's Executive Order No. 16, as extended by Executive Orders No. 71, where a quorum of the Commission is participating by electronic or other means of communication, such as WebEx or teleconference, and not by physical quorum. The law requires that in order for a quorum of the members to participate by electronic or other means of communication, "the governing body must make a determination that a necessity exists." The law further provides that "[s]uch determination, and a recitation of the facts and circumstances on which it is based must be included in the minutes of the meeting." Similarly, Governor Lee's Executive Order No. 16, as extended by Executive Order No. 71, permits conducting this meeting electronically if the governing body determines that is necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak.

The necessity for this Commission to meet using electronic means is that the ongoing COVID-19 pandemic and related state of emergency warrant eliminating large public gatherings and conducting business remotely by electronic means to the greatest extent possible, as well as offering members of the Commission and the public the opportunity to conduct and participate in public business in a safe, transparent way without creating large gatherings in a confined space and

endangering persons.

Inasmuch as this is a virtual meeting and that members of the public will be attending virtually and telephonically, each member should announce their name before making a comment, asking a question, making a motion, or seconding a motion. Each vote will be a roll call vote with the member announcing their name before their vote. The Procurement Commission Secretary shall record each vote, including how each member voted.

Is there a motion to adopt this Determination of Necessity and proceed with the meeting using electronic means?

- Motion,
- Second,
- Roll call vote

Commissioner Branscom directed staff to make the Determination of Necessity part of the meeting minutes and to file the Determination of Necessity with the Secretary of State's office.

Commissioner Branscom asked for a motion to adopt the Determination of Necessity and proceed with the meeting using electronic means. Commissioner Eley made a motion to adopt the Determination of Necessity as presented. The motion was seconded by Comptroller Mumpower. Roll call: All members voted in favor – none opposed.

Commissioner Branscom stated that staff is directed to make the Determination of Necessity part of the meeting minutes and file the Determination to Necessity with the Secretary of State Office.

Commissioner Branscom congratulated Comptroller Mumpower on his appointment and welcomed him to the Procurement Commission.

#### **IV. Minutes from the February 20, 2020 Meeting:**

Commissioner Branscom presented the February 20, 2020, minutes for approval. Comptroller Mumpower stated his office had reviewed minutes and moved adoption of the February 20, 2020, Procurement Commission meeting minutes as presented. Commissioner Eley seconded the motion. Roll call: All members voted in favor – none oppose, whereupon the minutes were approved.

#### **V. Consent Agenda Items.**

Commissioner Branscom presented the Consent Agenda items (1) through (5) for approval. Mr. Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, stated he was available for any questions.

Commissioner Branscom asked if there were any comments or questions on any items on the consent agenda. Comptroller Mumpower had a question regarding consent agenda number five USDA Food and Nutrition Service Requirement of Non-discrimination clause. He stated that this is a new item and since it is a new clause being added to the grants template that the item is described in whole or move to take this item on the regular calendar. Mr. Krivacka replied that each federal program has several flow down provisions required of state and local government. The USDA has its own flow down provisions, such as relating to non-discrimination with respect to the program.

He stated there is not much difference between what the USDA requires and what the State has in the standard template documents. But in the interest of being in full compliance with Federal Grant requirements, USDA is proposing an optional term dealing with non-discrimination with respect to USDA programs. Mr. Krivacka stated that he would expect that only in those cases where USDA funds are involved would this provision be used. Comptroller Mumpower was satisfied with the explanation and had no further issues with having this item on the consent calendar.

Seeing no further discussion, Comptroller Mumpower made a motion to approve Consent Agenda items (1) through (5). Commissioner Eley seconded the motion. Roll call: All members voted in favor – none opposed; whereupon Consent Agenda items (1) through (5) were approved.

## **VI. New Business:**

Mr. Krivacka presented the following New Business agenda items:

Mr. Krivacka noted that there were (6) New Business items.

Mr. Krivacka proceeded to present agenda item (1):

### (1) Counterpart (NEW)

Mr. Krivacka summarized the following points regarding the Counterpart (NEW) proposal:

- This proposal adds a new Counterpart Term – "This Grant Contract may be executed in two or more dated counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same effective instrument."
- Adoption of this proposal will reduce the administrative burden for procurement professionals collecting time-sensitive signatures for grant contracts.

Seeing no discussion on agenda items (1), Comptroller Mumpower made a motion to approve the Counterpart (NEW) as presented. The motion was seconded by Commissioner Eley. Roll call: All members voted in favor – none opposed.

Mr. Krivacka proceeded to present agenda item (2):

### (2) Procurement Procedures Manual (Sections 5.10. and 5.11.4)

Mr. Krivacka summarized the following points regarding the Procurement Procedures Manual (Sections 5.10. and 5.11.4) proposal:

- This proposal will require evaluator training as a prerequisite for an evaluator to score responses and adds additional information for Evaluation Committee Meetings.
- These proposed changes are designed to improve the quality of technical evaluations.

Seeing no discussion on item (2), Commissioner Eley made a motion to approve the Procurement Procedures Manual (Sections 5.10. and 5.11.4) as presented. The motion was seconded by Comptroller Mumpower. Roll call: All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda items (3):

### (3) License Term (NEW)

Mr. Krivacka presented the following point regarding the License Term (NEW) proposal:

- The State has several active, licensed trademarks, and this request would add an optional term for instances where the State is granting a license to Contractors or Grantees.

Seeing no discussion on agenda items (3), Comptroller Mumpower made a motion to License Term (NEW) as presented. The motion was seconded by Commissioner Eley. Roll call: All members voted in favor – none opposed.

Mr. Krivacka proceeded to present agenda item (4):

(4) Federal Procurement Commission Terms (NEW)

Mr. Krivacka presented the following point regarding the Federal Procurement Commission Terms (NEW) proposal:

- This request adds more optional contract terms to the FA, GR, and GG and configurator to reduce the number of RERs required when federal funds are involved.

Seeing no discussion on agenda item (4), Commissioner Eley made a motion to approve Federal Procurement Commission Terms (NEW) as presented. The motion was seconded by Comptroller Mumpower. Roll call: all members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda items (5):

(5) Warranty – Option – (NEW)

Mr. Krivacka presented the following point regarding the Warranty – Option – (NEW) proposal:

- This proposal will add a new option to the FA template to provide more flexibility to remove or revise the Warranty option with approval from CPO Legal.

Seeing no discussion on agenda item (5), Comptroller Mumpower made a motion to approve Warranty – Option – (NEW) as presented. The motion was seconded by Commissioner Eley. Roll call: all members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda items (6):

(6) Statewide Payment Card Policy and Procedures, Policy 2015-010

Mr. Krivacka presented the following points regarding the Statewide Payment Card Policy and Procedures, Policy 2015-010 proposal:

- The proposed changes to the Payment Card Policy follows work by the P-Card Team and P-Card program participants and includes updated definitions, grouping of similar sections together, and reorganization, including the addition of two appendices for informational purposes.
- The Policy has also been renamed to become a "Purchasing Card" Policy instead of a

"Payment Card" Policy to better reflect role of the p-card as a vehicle for making payments.

Seeing no discussion on agenda item (6), Commissioner Eley made a motion to approve Statewide Payment Card Policy and Procedures, Policy 2015-010 as presented. The motion was seconded by Comptroller Mumpower. Roll call: all members voted in favor – none opposed.

**IV. Human Resource Agency Procedures:**

- 1) East Tennessee Human Resource Agency
- 2) Southeast Tennessee Human Resource Agency
- 3) Southwest Human Resource Agency

Mr. Krivacka then proceeded to present Human Resource Agency Procedures for approval:

Mr. Krivacka explained the next item relates to approval of Human Resource Agency Procedures. By statute, the Procurement Commission's required to approve certain Tennessee Human Resource Agency policies and procedures. The Central Procurement Office (CPO) staff has coordinated changes to each of these Human Resource Agencies policies and procedures. These policies and procedures are currently in a state in which the CPO is satisfied and asks for approval.

Comptroller Mumpower stated that the Comptroller's office completed an audit of the Human Resource Agencies last fall and presented that audit to the Legislature. There were some findings in the audit relating to a couple of these policies. The Comptroller's office has been in contact with the East Tennessee Human Resource Agency (ETHRA) as recently as today. There is an agreement between the East Tennessee Human Resource Agency and the Comptroller's office that ETHRA needs to further update their policy presented today due to the audit findings.

Comptroller Mumpower made a motion to defer the East Tennessee Human Resource Agency approval to the Procurement Commission's April meeting. And he made a motion to approve the other two, Southeast Tennessee Human Resource Agency and Southwest Human Resource Agency policy and procedures, which Comptroller's Office believes to be consistent in keeping with the observations from the audit last fall. The motion was seconded by Commissioner Eley. Roll call: all members voted in favor – none opposed.

**V. Reports:**

Mr. Krivacka presented the following standard reports for acknowledgment and informational purposes:

- 1) Certification Related Items (CMRA)
- 2) Limitation of Liability
- 3) Memorandum of Understanding (MOU)
- 4) Correction of Errors
- 5) GO-DBE 2021 Amount of Fair Proportions

Commissioner Branscom requested to reflect that the reports were presented and accepted. Comptroller Mumpower asked Mr. Krivacka to explain the GO-DBE 2021 Amount of Fair Proportions report for the record. Mr. Krivacka explained that the Governor's Office of Diversity Business Enterprise (GO-DBE) is a division within the Central Procurement Office and is responsible for

ensuring business for various diverse businesses. "Diverse Businesses" include businesses owned by minorities, women, disabled veterans, small businesses, and so on. This reports on GO-DBE's activities and successes throughout the past fiscal year.

**VI. Other Business:**

Consent to Cancel the March 18, 2021, Procurement Commission Meeting:  
Comptroller Mumpower, Commissioner Branscom, and Commissioner Eley gave their verbal consent to cancel the March 18, 2021, Procurement Commission meeting. The next meeting will be on April 15, 2021. A motion was made by Comptroller Mumpower and was seconded by Commissioner Eley. Roll Call: All members voted in favor – none opposed.

**VII. Adjournment:**

Seeing no other business, a motion for adjournment was made by Commissioner Branscom and seconded by Comptroller Mumpower. The motion was seconded by Commissioner Eley. Roll call: all members voted in favor – none opposed, whereupon February 18, 2021, Procurement Commission meeting was adjourned.



# **PROCUREMENT COMMISSION AGENDA ITEMS OVERVIEW**

## Overview of Agenda Items:

### Consent Agenda Items:

#### **1. RFP and RFQ Guide**

- Minor revision to soften the solicitation language from “must” to “should” as it relates to the instructions to respondents for organizing the response contents page guide.

#### **2. Click-Wrap Agreement Approval Request**

- This change removes references to the AGSPRS email account, which is being phased out due to automation initiatives.
- Click-Wrap Agreement Approval Requests are submitted using the eForms in Edison.

#### **3. No Cost Intellectual Property Indemnity (formerly “Copyrights and Patents”)**

- Minor revisions to the “Copyrights and Patents” term in the No Cost (“NC”) contract to be consistent with the terminology used in the “Intellectual Property Indemnity” term in the FA Template.

### New Business Agenda Items:

#### **1. Contractor Commitment to Diversity contract term**

- To assist the State with monitoring spend with diversity businesses, this change makes the Contractor Commitment to Diversity term included as a default, with option to remove without a RER if not applicable.
- This term is currently an optional term and if not included in the Contract then some Contractors are not reporting their diversity spend.
- This change will make it more likely that the Contractor Commitment to Diversity term is included in the contract and therefore assist State Agencies and Go-DBE in more accurately reporting diversity spend dollars.

#### **2. Statewide Contract Reports contract term**

- Adds the Statewide Contract Reports as an optional term to the FA template.
- These reports are often requested by the Category Management teams in the CPO on statewide contracts on an ad hoc basis and this will standardize the inclusion of the reports term.

#### **3. Contract Approval – Agency Legal Certification**

- This change consolidates the Agency Legal Certification and the Smaller Agency Certification into one document.
- This revision softens the language in the standard Agency Legal Certification while still encouraging agency legal staff involvement and certification that contracts are in compliance with CPO Template language (or an approved Rule Exception Request has been obtained).

#### **4. e-Health Pre-Approval Endorsement [Removal]**

- Request to remove the e-Health Pre-Approval Endorsement and related references in CPO policies and procedures.
- TennCare’s office of eHealth asserts there is no longer a benefit to this endorsement primarily due to advances in technology that capture the interoperability of data between state agencies.

- Removal of this requirement will benefit all State Agencies through the reduction of required documentation.

**5. Statewide Payment Card Policy 2015-010**

- Section 4.5. - clarifies that Cardholder Supervisors need to complete both the Cardholder and the Agency Coordinator training.
- Section 4.7. - clarifies when a part-time employee requires a P-Card to complete their duties, a Rule Exception Request must be submitted and approved before P-Card issuance.
- Section 5.3. – adds a reminder that all F&A Division of Accounts accounting policies should be followed for P-Card transactions and usage.
- Sections 5.8 and 8.4. – adds instructions for State Agencies to contact the Statewide P-Card Administration Team as needed to unblock Merchant Category Codes (and to not contact the Bank directly).
- Section 11 – adds reference to where to find assistance with submitting the P-Card Rule Exception Request eForm (on the Central Procurement Office’s Learning and Development job aid page on TEAM TN).

# **RFP AND RFQ GUIDE**

**REQUEST: Revise the RFP Template at section 3.1.1.1. and the RFQ Template at section 1.1. as follows:**

**RFP Template:**

- 3.1.1.1. A Respondent should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

**RFQ Template:**

**1. RESPONSE REQUIREMENTS**

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1.1. **Response Contents:** A response to this RFQ should address the following:

- 1.1.1. Mandatory Requirements: This section details the mandatory technical, functional, and experience requirements that must be demonstrated in the response to this RFQ in order to be passed on to Phase II of the Technical Response evaluation. A Respondent should duplicate and use RFQ Attachment A as a guide to organize responses for the Mandatory Requirements of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table. This section is included in the State's evaluation as to whether or not a Respondent meets mandatory qualifications (Phase I).
- 1.1.2. General Qualifications & Experience: This section is included in the State's evaluation of Phase II of the Technical Response Evaluation and details general information and qualifications that must be demonstrated in the response to this RFQ. A Respondent should duplicate and use RFQ Attachment B as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.
- 1.1.3. Technical Qualifications, Experience & Approach: This section is also included in the State's evaluation of Phase II of the Technical Response Evaluation and details technical qualifications, experience, and approach items that must be demonstrated in the response to this RFQ. A Respondent should duplicate and use RFQ Attachment C as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.
- 1.1.4. Cost Proposal: ***For Qualified Respondents only***
  - 1.1.4.1. This section only applies to those respondents identified as being Qualified. See RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released."
  - 1.1.4.2. If included as part of this solicitation, then the Cost Proposal must be recorded on an exact duplicate of RFQ Attachment D, Cost Proposal & Evaluation Guide. Any response that does not follow the instructions included in RFQ Attachment D may be deemed nonresponsive.

- 1.1.4.3. A Respondent must only record the proposed cost exactly as required by the RFQ Attachment D, Cost Proposal & Evaluation Guide and must NOT record any other rates, amounts, or information.
- 1.1.4.4. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 1.1.4.5. A Respondent must sign and date the Cost Proposal.
- 1.1.4.6. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response.

# **CLICK-WRAP AGREEMENT APPROVAL REQUEST**

# Click-wrap Agreement Approval Request

Procurement professionals should use this document to seek approval to enter into or renew a click-wrap agreement associated with a proposed purchase made under an Agency’s small purchase authority. This Request will typically be utilized for licenses of software, internet-based services or computer services. See sections 4.1. and 5.15.3.3. of the [Procurement Procedures Manual of the Central Procurement Office](#) for more information about click-wrap agreements. THIS DOCUMENT CANNOT BE USED TO MODIFY AN EXISTING CONTRACT, EVEN A CONTRACT EXECUTED UNDER AN AGENCY’S SMALL PURCHASE AUTHORITY. A Special Contract Request may not be required for any agreement with a total dollar value under the small purchase authority threshold. For new click-wrap agreements, submit a copy of the proposed click-wrap agreement, license agreement or terms of use, the quote you were provided (if applicable), and a completed Click-wrap Agreement Approval Request in Edison as a Click-wrap e-Form. For additional guidance, please see the e-Forms Job Aid available online at the following: <https://www.teamtn.gov/cpo/learning-development/cpo-job-aids.html>. . If this is a renewal, please also include a copy of the previously approved click-wrap agreement. Approved Click-Wrap Agreement Requests and supporting documents must be maintained with the procurement file.

<b>APPROVED*</b>	<b>APPROVED</b>
<b>CENTRAL PROCUREMENT OFFICE</b>	<b>DATE</b>
<b>STRATEGIC TECHNOLOGY SOLUTIONS</b>	<b>DATE</b>

\*If CPO provides you with a State negotiated Contract, CPO’s approval is contingent upon their receipt of an Agency countersigned copy. The Agency signatory must have signing authority. Please sign and: (1) send directly to the Contractor at the email address CPO provides to you; (2) retain a copy for your records; and (3) upload a copy of the signed Contract and this Click Wrap Approval Request document into Edison.

If a letter of adhesion is sent and the contract is not negotiated then upload a copy of the letter of adhesion (this will contain “Letter of Adhesion” in the filename), the original terms and conditions, and this Click Wrap Approval Request document into Edison. In the event that the proposed Click Wrap Agreement Request is stamped DENIED an accompanying explanation will be provided in the box labelled “Denial Explanation” located at the bottom of this form, which may contain additional instructions.

<b>Agency Tracking #</b>	
<b>1. Procuring Agency</b>	
<b>2. Agency Contact</b> (Include name, email address and phone number)	
<b>3. Contractor Name and ID #</b> (Also include both the developer and the reseller if obtaining via a third party)	
<b>4. Contractor Contact</b> (Include name and email address to where proposed changes can be sent. If buying from a reseller, please provide the reseller contact information.)	
<b>5. Click-wrap agreement’s proposed Effective Date</b> (This is the anticipated date for entering into the click-wrap agreement.)	
<b>6. Click-wrap agreement’s proposed End Date</b>	
<b>7. Name and description of goods or services</b> (Please be specific, i.e. what the product will be used for, whether anything will be downloaded onto State	



servers or whether data will be transmitted to third parties).		
<b>8. Are these goods or services currently available on a statewide or agency term contract? If YES, please explain why the current contract is not being used for this procurement.</b>		<input type="checkbox"/> NO <input type="checkbox"/> YES,
<b>9. Maximum Contract Cost</b> – with ALL options to extend exercised. Note: the Click-Wrap Approval process shall not be used if the Maximum Contract Cost is over \$10,000.		\$
<b>10. Sensitive Data Involvement</b> - If none, select N/A. If yes, please provide the type of data involved (e.g., HIPAA, Payment Card Industry (PCI), Federal Tax Information (FTI), Family Educational Rights and Privacy Act (FERPA), Federal Information Security Management Act (FISMA), Criminal Justice Information Services (CJIS), Center for Medicare and Medicaid (CMS), Social Security Administration (SSA), or Personally Identifiable Information (PII)).		<input type="checkbox"/> N/A <input type="checkbox"/> YES,
<b>11. Additional STS Approvals</b> – Please identify any <b>STS Endorsements</b> or <b>Exception Requests</b> that have been submitted for this product/service. If this does not apply to your request, please leave blank.		<b>(1) Endorsement or Exception Request #</b>  <b>(2) Date submitted</b>  <b>(3) Current Status</b> (circle one) <b>[Planned] [In Progress] [Completed]</b>
<b>For Renewals Only</b>		
<b>Confirm that there is a valid renewal option remaining in the contract and confirm that there has been no other change to the agreement's terms and conditions.</b> – If there is not a valid renewal or extension option remaining in the agreement, submit as a new click-wrap agreement or contract instead. (Note: the term cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)	<b>Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract.</b> – Considering such items as contractor performance, pricing, etc.	<b>Confirm this renewal or extension does not increase the total dollar value above amounts approved for local purchase authority.</b>
YES <input type="checkbox"/>	YES <input type="checkbox"/>	YES <input type="checkbox"/>
<b>Denial Explanation</b> (for CPO/STS use only)		

**NO COST INTELLECTUAL PROPERTY  
INDEMNITY (FORMERLY  
“COPYRIGHTS AND PATENTS”)**

**REQUEST:        Revise the No Cost “NC” term as follows:**

**E.#.**    Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State’s failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

# **CONTRACTOR COMMITMENT TO DIVERSITY CONTRACT TERM**

**REQUEST: Move the “Contractor Commitment to Diversity” term from optional to a “Special Term and Condition” and revise the instructions as follows:**

**FA Template:**

**E.#.** Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to **Solicitation Number** (Attachment **Reference**) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

**FA Template Instructions, Considerations, and Options:**

**Contractor Commitment to Diversity**

Revise or remove the Contractor Commitment to Diversity section as appropriate.

**STATEWIDE CONTRACT REPORTS  
CONTRACT TERM**

**REQUEST: Add the following as an optional term to the FA Template.**

**Statewide Contract Reports – CPO use Only**

Add the following Section if the contract will establish a Statewide Contract and modify as needed to request reports from the Contractor.

**E.#. Statewide Contract Reports.** All reports shall be submitted electronically in Microsoft Excel format. Reports shall include the ability to sort or summarize data in accordance with the Contract Administrator's specifications. All reports shall be provided at no additional cost to the State.

Quarterly Reports: Contractor(s) will submit quarterly reports to the Contract Administrator no later than **ten (10)** days after the end of the State's quarter (e.g. a fiscal year quarter 2 report for October - December is due no later than **January 10th**). At the Contract Administrator's sole discretion, the State may extend the time allowed to complete quarterly reports. Quarterly reports shall provide statistical data on all purchases under this Contract by Tennessee State Agencies and Authorized Users. At minimum, the quarterly report's statistical data shall be detailed and broken down by line item to include:

1. **Edison contract number**
2. **Contract line item number**
3. **Invoice date**
4. **Invoice number**
5. **Supplier part number**
6. **Item or bundle description**
7. **Quantity purchased**
8. **Unit of measure**
9. **Unit of measure description**
10. **Name of State Agency or Authorized User**
11. **Identity of purchaser: State entity or non-State entity**
12. **State Agency location**
13. **Unit/Contract price per line item**
14. **List price as listed in supplier's catalog if catalog item**
15. **Subtotals for each category above**
16. **Grand totals for each category above**

Custom Reports: When requested by the State, the Contractor shall submit custom reports to the Contract Administrator within thirty (30) days of the request.

**CONTRACT APPROVAL – AGENCY  
LEGAL CERTIFICATION**



**REQUEST:** Revise the “Contract Approval – Agency Legal Certification Model” as follows and remove “Contract Approval – Small Agency Certification” from the list of “Other General Models & Administrative Documents under section 11.2. of the *Procurement Procedures Manual of the Central Procurement Office*.”

## Contract Approval – Agency Legal Certification

A completed contract routed for Central Procurement Office (CPO) approval via Edison should be accompanied by this Agency Legal Certification template that has been signed and attached in PDF format.

1. Edison Contract ID #	
2. Contracting Agency Name	
3. Contractor Name	
4. Service Caption	
5. Agency Contact (name, phone, e-mail)	
<p><b>6. Legal Certification</b></p> <p><i>By signing below, the department’s legal staff certifies that:</i></p> <ol style="list-style-type: none"> <li>1) the contract as submitted includes only CPO template language (unless the agency has obtained an approved rule exception request);</li> <li>2) the contract is legally sufficient both in form and substance to protect the best interests of the State; and</li> <li>3) the contract does not contravene applicable law.</li> </ol> <hr/> <p><b>Agency Attorney Signature &amp; Date</b></p>	

1. Edison Contract ID #

**7. (Optional) Alternative to Legal Certification Request**

Note: In the event Agency legal staff is unable to certify above, the Department's Contract Coordinator may certify as follows and a Word version of the Contract should be submitted along with the contract.

**Please keep in mind that this alternative will slow down the approval process.**

**Certification**

*By signing below, the department's contract coordinator certifies that:*

- 1) the contract as submitted includes only CPO template language (unless the agency has obtained an approved rule exception request).

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**Contract Coordinator Signature & Date**

**E-HEALTH PRE-APPROVAL  
ENDORSEMENT [REMOVAL]**

**Request:** Remove the Department of Finance & Administration's eHealth Initiative Pre-Approval Endorsement and all references to this endorsement in the CPO models, templates, policies, and procedures including sections 5.15.3.1. and 11.2. of the *Procurement Procedures Manual of the Central Procurement Office*; section 6.2. of Policy Number 2013-004, Contract Management Policy; and section 6 of Policy Number 2013-006, Delegation of Authority Policy.

**STATEWIDE PAYMENT CARD POLICY  
2015-010**

**Request:           Revise Statewide Payment Card Policy 2015-010 at the following excerpts:**

#### **4.5 Cardholder Supervisors.**

The Cardholder Supervisor must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities may include:

- Completing the Cardholder and Agency Coordinator training in Edison;
- Reviewing all documentation and ensuring it is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Approving or rejecting all Transactions as to the appropriateness of the transaction;
- Ensuring that all documentation is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Maintaining knowledge of this Policy and State Agency's internal P-Card Procedures, as applicable; and
- Requesting reasonable spending limits in accordance with this Policy and State Agency's internal P-Card Procedures, as applicable.

#### **4.7. Cardholders.**

Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee (note: when a part-time employee requires a P-Card to complete their duties, a P-Card Rule Exception Request must be submitted before P-Card issuance);
- Reading and becoming familiar with this Policy;
- Completing the Cardholder training in Edison;
- Being responsible for all purchases made on the P-Card;
- Being responsible for verifying transactions in Edison (confirming or disputing) and attaching appropriate supporting documentation on at least a weekly basis (per Section 9.3); and
- Adhering to this Policy and other applicable rules, policies, and procedures.

#### **5.3 Purchasing Rules.**

The P-Card is only a vehicle for making payments. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card. All F&A Division of Accounts accounting policies should be followed for P-Card transactions and usage.

## 5.8 Declined Purchase Transactions.

On occasion, a Cardholder’s purchase transaction may be declined. Cardholders should contact the Bank’s Customer Service to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance. Declined transactions are reported to the P-Card Administration Team and subject to review.

Common reasons for declined purchases include:

- MCC is restricted from the Payment Card;
- The Cardholders has exceeded the STL or Cycle Limit; or
- Card expiration.

If after learning about the reason for the declined transaction, a Cardholder needs to request a change then State Agencies should contact the Statewide P-Card Program Administration Team or follow the P-Card Rule Exception Request eForm procedure in Edison as applicable.

## 8.4 Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant’s principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with suppliers that provide goods or services that are prohibited from purchase using the P-Card.
- Unauthorized MCCs are blocked at the point-of-sale.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs by contacting the Statewide P-Card Program Administration Team.
- State Agencies should not contact the Bank directly to unblock MCCs.

### Section 10.1. ....

17	Any goods or services related to political activity as defined under “The Little Hatch Act,” Tenn. Code Ann. §§ 2-19-201 through 208	Purchase of political publications are prohibited by Department of Finance and Administration - <a href="#">Policy 10</a> , Organizational Dues, Subscriptions, and Sponsorships.
18	Purchases Reserved for the Designated State Agency Central Fiscal Office Cardholder, unless in accordance with Section 11 of this Policy	Cardholders other than the person designated by the State Agency Fiscal Office Cardholder are prohibited from making certain purchases as outlined in section 11 of this Policy.

19	Purchases identified as Capital Assets by the Department of Finance & Administration <a href="#">Capital Asset Guide</a>	Purchases of goods or equipment that require tagging under the Department of Finance and Administration's policies – <a href="#">Policy 33</a> , should not utilize the P-Card as the primary payment method because these purchases require the prior approval of the Department of Finance and Administration, Division of Accounts, as the business owner of the Asset Management Module. Exceptions for <i>emergency</i> Asset purchases using the P-Card must be pre-approved by Asset Management.
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**11. ...**

State Agencies may request an exception from this paragraph through the use of a P-Card Rule Exception Request eForm in Edison initiated by the State Agency P-Card Program Coordinator and approved by the State Agency Fiscal Director and the Central Procurement Office. For assistance with submitting the eForm please visit the Central Procurement Office's Learning and Development job aid page on TEAM TN.



**EAST TENNESSEE HUMAN RESOURCE  
AGENCY**

		<b>STATEMENT of POLICY and PROCEDURE</b>		
		<b>SUBJECT: Purchasing Policy &amp; Procedures</b>		
Date Effective:	<b>10/08/2019</b>	Approved by:	<b>Gary Holiway, Executive Director</b>	<b>Policy No.</b>
Prior Revision:	<b>04/11/2017</b>	Adopted By Board:		<b>OPS-080</b>

**Introduction**

These purchasing procedures set purchasing standards for the East Tennessee Human Resource Agency, Inc. (ETHRA) and for all grants unless otherwise stated in individual contracts or through applicable laws and administrative directives.

ETHRA was established pursuant to Tennessee code Annotated: "Human Resource Agency Act of 1973" and is a public 501c3 not-for-profit agency.

**Definitions**

Executive Director: *Executive Director or designee*

Program Manager: *Program Manager, Program Director, or designee*

Purchasing Agent: *Purchasing Agent or designee*

**Policy**

It is ETHRA’s policy that all procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with applicable State and Federal procurement standards.

ETHRA personnel shall not engage in procurement practices which may be considered arbitrary or restrictive. Furthermore, no officer, employee, or agent of ETHRA shall unlawfully benefit directly or indirectly from the purchasing of materials or services by ETHRA.

Purchases may only be made from vendors that have a demonstrated capacity to produce goods or provide services within a reasonable period of time as established by ETHRA. In addition, any vendors found to be misrepresenting quality, quantity, price or that are disbarred from contracting with the Tennessee or Federal governments will be disqualified.

This policy applies to all ETHRA personnel including employees, volunteers, and Title V employees at all locations. Where purchases involve negotiated contracts, additional provision may be mandated by a program’s grantor or state and federal laws.

**Purchase Methods**

Purchasing requirements and procedures vary depending on the amount of the purchase and type of product or service being purchased. The competitive procedure(s) used should be appropriate for the purchase undertaken. The procedures used must comply with State and local law as well as with Federal requirements. Federal restrictions vary with the type of procurement method used.

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Where necessary, specification requirements shall be based upon a clear and accurate description of the technical requirements for the material, product or service. The absence of such detail shall be recognized as meaning that only the best commercial practices are to prevail and only first quality materials and workmanship are to be used. Reference to brand names, model numbers or other descriptions peculiar to specific brand products will be made where appropriate to establish a required level of quality and functional capabilities, not to restrict purchases only to these brands. Comparable products of other manufacturers will be considered if proof of comparability is contained in the bid. Provision of such proof is the total responsibility of the vendor and could include such things as brochures, catalog pages or other data, attached to the bid.

***L Micro-Purchases (Less than \$10,000)***

Micro-Purchases are procurements totaling less than \$10,000. Bids are not required on Micro-Purchases, but the procedure below must be followed.

**Micro-Purchases Procedure:** Micro-purchases can be made either by an LPO (Limited Purchase Order) or by bank card. LPO's must be approved by an authorized manager and accompanied by relevant documentation. Bank card purchases require supervisory approval via the issuing bank's online bank card system. When approving a purchase, managers must ensure that included documentation demonstrates that the price paid is fair, reasonable and the item meets operational needs. One may not divide or reduce the size of its procurement merely to come within the micro-purchase limit.

***IL Small Purchases (\$10,000 to \$50,000)***

Small Purchases are those totaling at least \$10,000, but no more than \$50,000. The Purchasing Agent must complete a purchase order for all Small Purchases, and follow the Competitive Quotes procedure below. The Purchasing Agent is also prohibited from dividing or reducing the size of the procurement merely to avoid the requirements of a larger acquisition.

**Small Purchases Procedure:** The Purchasing Agent must obtain a minimum of three competitive (unsealed, informal) bids or quotes from different vendors, and place said quotes in the transaction file, along with the final purchase order. If a quote is given in writing, said document may be directly placed in the transaction file. If a quote is given verbally, the Purchasing Agent must transfer the pertinent facts about the quote to a written document and place it in the transaction file. If it is impossible or impractical to obtain at least three quotes, then the reason why must be documented in writing, and placed in the transaction file, along with the final purchase order. The purchase order will be considered as written confirmation of the quote.

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Also note, any purchase of \$25,000 or more must be reviewed by the Purchasing Oversight Committee (see subsequent section herein for more details on this Committee). Therefore, some, but not all Small Purchases, might require Committee review. It is the responsibility of the Purchasing Agent to ensure every procurement transaction has secured all necessary approvals.

***III. Large Purchases (Greater than \$50,000)***

Large Purchases are those totaling over \$50,000. Large Purchases must follow either the Sealed Bids Procedure or the Competitive Negotiation Procedure, in the absence of an approved Exception.

**Large Purchases Procedure #1: Sealed Bidding.** Sealed bids must be requested for purchases greater than \$50,000. Invitations to bid should be sent to prospective vendors on all formal, sealed-bid purchases, published on ETHRA's website or social media accounts, advertised in print media or by any other appropriate method.

*Where federal funds are involved, the Request for Bids (RFP) must also specifically notify all potential bidders that the bid winner must be willing and able to meet all applicable government procurement requirements as applied to the original grant and those specifically related to contract sub recipients .*

Invitations to bid shall indicate that bids are to be received by ETHRA on or before a specified date or hour. Bids should be returned in sealed envelopes, addressed as follows. Emailed or faxed bids will not be accepted.

When a sealed bid is opened, examined and recorded, the original copy is placed in a file for evaluation by the Purchasing Agent.

In the event that a request for bids results in only one bid submission, the Purchasing Oversight Committee will review all aspects of the RFP, including product specifications, method(s) used to convey the RFP, geographic area in which RFP advertised, etc. to ensure that nothing in the RFP process would restrict the opportunity to obtain more vendor bids. A thorough review should either support the original RFP process or result in a retraction of the original RFP. The original RFP will be canceled and a new RFP may then be issued addressing the deficiencies of the original RFP specifications or process.

**Large Purchases Procedure #2: Competitive Negotiation.** The Competitive Negotiation procedure is utilized when the Purchasing Agent determines that the use of Sealed Bidding is not practicable, i.e., when it is not possible to detail fully the scope or quantity of the services or goods sought by ETHRA. Contracts may also use the Competitive Negotiation procedure when the Purchasing Agent determines that the bid prices received by competitive sealed bidding are either unreasonable, or were not independently

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reached in open competition. However, the Purchasing Agent must document the specific reasons why the Sealed Bidding method was not utilized, and place such documentation in the transaction file. Proposals or requests for qualifications leading to a negotiated procurement shall be publicly advertised and solicited in order to obtain the greatest possible competition.

***Purchasing Oversight Committee***

All purchases of \$25,000 or more must be reviewed by a Purchasing Oversight Committee, consisting of the Financial Director, the Legal Advisor/ Compliance Officer, and the Purchasing Agent. In addition, the Oversight Committee must review all purchase requisitions for new technology and purchase requisitions which are or may be perceived to be of a sensitive nature. The Purchasing Oversight Committee must also review Consultant Contracts and requests to purchase vehicles (see *Vehicle Management Policy and Procedure*). In addition, all purchase requests involving computer hardware, software, and peripherals must also be specifically reviewed and authorized by the Information Systems Director. *Any of the reviews to be completed by the Purchasing Oversight Committee or the Information Systems Director must be reduced to writing, dated, signed, and then preserved in the transaction file.*

***IV. Exceptions to Standard Procurement Procedures***

**NOTE: No ETHRA Employee or Purchasing Agent is authorized to independently determine that an exception listed below applies to a given procurement situation without first bringing the details of the proposed transaction to the Purchasing Oversight Committee for a preliminary review and determination of exception applicability.**

***Purchases from Government-Qualified Source***

ETHRA qualifies to purchase off State of Tennessee contracts which do not require additional bids . If ETHRA finds the same product at a price lower than the State contract we are authorized to purchase without additional bids, but must attach a copy of the State contract for comparison. When purchasing equipment or services available on a state contract using Federal funds, regardless of amount of Federal funds expended, ETHRA must ensure that appropriate Federal clauses are incorporated in the procurement contracts with the selected vendor. This can be accomplished by ensuring that the selected vendor is provided a copy of applicable Federal clauses and returns a signed document agreeing to specified clauses to ETHRA for inclusion in ETHRA's files. As a general rule, any Federal clauses and documents that are signed by ETHRA in order to implement a Federal grant agreement and award of Federal funds are the same clauses that must be reviewed and signed by the vendor selected from an existing state contract.

***Sole-source Purchases***

Purchases may be arranged without benefit of bid when an item is unique and has specific characteristics that can be filled by only one source. A justification for the sole-source purchase shall be included in the file and shall not be based solely on information from the source vendor. In making the sole-source determination, the Purchasing Agent and Oversight Committee will consider the following:

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- Whether the vendor possesses exclusive or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from similar products;
- Whether the product or service is unique and easily established as one of a kind;
- Whether the program requirements can be modified so that competitive products or services may be used;
- Whether the product is available from only one source and not merchandised through wholesalers, jobbers, or retailers;
- Whether items must be interchangeable or compatible with in-place items.

After the Committee’s review of the written justification from the requisitioning department and ascertaining that the item to be purchased meets one or more of the above criteria, the sole-source purchase may be made without following competitive bid procedures.

***Emergency orders***

Purchases may be placed by the Purchasing Agent or designee when immediate delivery (one to two days) is necessary for continuation of services. A written memo will be attached to the file copy of the purchase order.

***Blanket Purchase Orders***

Where continued purchase of services or consumable materials is anticipated from a single vendor, ETHRA may elect to obtain purchases through use of a "blanket" order. A blanket order requisition follows regular purchasing guidelines. A blanket order requires bids, is restricted to routine consumable- type purchases, and denotes a maximum annual obligation.

***Products Produced by State Agencies***, such as Tennessee State Industries and Services for the Blind, will be utilized where possible in accordance with TCA Section 14-14-104 and 41-22-119.

**Procurement Documentation**

As indicated above, ETHRA employees initiate a purchase of goods and/or services by completing a Purchase Requisition (PR), obtaining a Limited Purchase Order, or using their ETHRA bank card. Regardless of purchase method, the employee should ensure that documentation describing the item(s) or services needed, any price quotes obtained, relevant vendor information, etc. is attached as support for the purchase.

***LPO's***

When an LPO is appropriate, the Program Manager or authorized employee fills out and signs the LPO, attaches it to the order confirmation and submits it to Finance.

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***Purchase Orders***

When a Purchase Order is appropriate, the Program Manager fills out a Purchase Requisition with a description of the needed items, price, vendor name, chargeable account name, required quotes and proper supporting documentation. The Program Manager signs the PR on the "Requested By" line.

If the purchase total (as noted above) triggers a review by the Purchasing Committee, it must be approved by two members of that committee before being presented to the Executive Director. The Executive Director reviews the PR, approves the PR by signature, and either returns it to the Purchasing Agent or forwards it to the Finance Department where the PR is coded with the appropriate general ledger code(s).

The Purchasing Agent creates a numerically-controlled PO, reviews any supporting documentation for compliance related issues, and if appropriate, signs it. Alternatively, the Executive Director may sign the PO if the Purchasing Agent is not available. The PO should include the PO creation date; vendor name and address; program name issuing the requisition; type, quantity and price of supplies and equipment; delivery date, where necessary; any special information needed by the vendor. The completed PO package is sent to the Finance Department.

The Purchasing Agent (or designee) returns a copy of the Purchase Order to the Program Manager who initiated the process. The Program Manager makes the purchase and forwards proof of the purchase (i.e. a purchase confirmation, a screen copy of the order placed, or other proof) to the Finance Department.

The original purchase order is filed numerically and retained in accordance with ETHRA's *Data Retention Policy*. A copy of the purchase order should be provided to the vendor.

***Receipt of Goods and Billings***

All ETHRA employees are authorized to accept deliveries; however, the receiving employee **MUST** confirm by direct examination that the shipping container does not display any visible damage. If it does, the employee must record on the shipper's manifest the apparent degree of damage to the shipping container and notify the ordering individual as noted on the shipping label of the delivery and the degree of damage. The container should be forwarded to the ordering individual.

On receipt, the employee who ordered the goods will open the container; compare the contents to the purchase order and packing list; note any discrepancies or damage found on the packing list; and sign the packing list. The packing list **MUST** be forwarded to the Finance Department promptly to ensure that the vendor can be paid.

The Accounts Payable, Finance Department will compare the invoice, packing list, and purchase order as evidence that purchases have been received, are in good order, and agree to the vendor's invoice. Any adjustments in amounts due are made at this time. All processed transactions are entered into ETHRA's

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accounts payable system. All scheduled payments will be approved by the Executive Director or designee. On payment, all supporting documents are scanned into an electronic document management system. Scanned documents are filed and retained in accordance with ETHRA's *Data Retention Policy*.

***Purchase Order Exceptions***

Exceptions to the use of purchase orders (note: these are not the same as the exceptions to the procurement procedures) are as follows:

- telephone billing;
- freight charges incurred in connection with the purchase of supplies and equipment;
- postage charged including purchase of metered postage;
- charges on airlines and gasoline credit cards;
- bonding fees or notary public fees;
- utility billings, connection fees, deposits;
- tuition, fees and other supplies for training of individuals;
- charges for rooms for meetings and attendant costs;
- rental of vehicles while on approved travel;
- rental or leasing of office and storage space; or
- participant/ client expenditures.

**Vendor Bidder Selection**

Vendors will be selected on the basis of competitive bids where practicable. Selection of bidders for small purchases shall be based on past performance. The selection for large purchases will be based primarily on the apparent ability of the vendor to perform the contract and past performance. Measures used in determining ability might include net worth, number of employees, and gross annual sales.



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*Format/or Sealed Bid Envelope*

<p>From</p> <p>_____</p> <p>DO NOT OPEN - SEALED BID To be opened</p>	<p>ATTN: PURCHASING DIVISION East Tennessee Human Resource Agency 9111 Cross Park Drive Suite D-100 Knoxville, TN 37923</p>
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ETHRA may cancel an invitation to bid any time prior to the award. Bids delivered past the date and hour designated for opening will be rejected and placed in the file unopened. The vendor representative signing the bid must be authorized to bind the vendor to contract. A bid not appropriately signed will be rejected.

Terms and conditions established by the bidder must be noted conspicuously on the face of the invitation. If the conditions vary materially from the terms listed in the invitation to bid, the bid could be considered unresponsive and subject to rejection.

Net pricing shall be requested for the units specified. Net price is list price less all trade or other discounts offered. Insertion of price escalator clauses, minimum order requirements, delivery costs, and other items should be listed where appropriate.

Erasures or use of correction fluid on bid forms are not acceptable and the bid will be rejected. Errors may be corrected, prior to submission, by lining out and entering the substituted words or figures with the change initialed and dated by the person signing the bid. Bids shall not be altered or amended after the bid opening. In the case of arithmetic errors in the extended prices, the unit price will govern.

Amendment or withdrawal of bids may be permitted under certain circumstances. *Prior to the opening*, a vendor may amend or withdraw a bid by submitting the request in writing to ETHRA's Purchasing Agent. After the opening, a vendor may withdraw their bid when there is an obvious calculation error, a factual error, or enforcement would impose considerable hardship on the vendor. A vendor requesting the withdrawal of a bid must do so in writing to the Purchasing Agent, stating the reasons for the request. ETHRA's Purchasing Agent may, after review of the submitted documentation, permit the bid to be withdrawn. In no event should the bidder be permitted to change any pricing or provision of a bid once opened.

Questions concerning invitations to bid should be directed to the Purchasing Agent or other ETHRA employee whose name and phone appears on the invitation to bid.

Vendors may examine bid files at ETHRA's main office during normal working hours, after bid award. A request to review the bid should be made through the purchasing agent.

***Bid Awards***

Bids shall be awarded to the best qualified vendor submitting the best bid, considering the factors stated in the invitation. Such factors may include but may not be limited to:

- vendor experience and ability to perform, including past performance;
- price
- quality and reliability of product;

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- associated training costs;  
the effect on Agency productivity;
- purpose or use;  
discount for payment;
- freight;
- delivery terms; and
- environmental impact.

Where more than one item is specified in the invitation, ETHRA reserves the right to determine the low vendor, either on the basis of each individual item, or group of items, or total of all items, unless otherwise stated in the invitation to bid.

Tie bids may exist where two or more vendors offer products that meet all specifications, terms and conditions at identical prices. Tie bids will be broken by the following methods, in descending order of preference:

- in-state business;
- certified Disadvantaged Business Enterprises;
- small business;
- best delivery terms, or
- award purchase on a line item basis to the low vendor on that item.

ETHRA may require additional time to award a bid in order to accumulate sufficient information to make a fair comparison and determine the best bid.

***Rejection of Bids***

ETHRA may reject any or all bids. Action to reject all bids shall be taken for unreasonably high prices, errors in the invitation to bid, cessation of need, unavailability of funds, or any other reason approved by the Executive Director. Vendor bids may also be rejected if a search of the applicable government disbarment database reveals that the vendor has been barred from bidding on government contracts.

**Vendor Performance**

Notice of back orders, when necessary, should be presented to ETHRA in writing, specifying expected shipping or delivery date.

Product deficiencies or vendor performance will be reported in writing by the Purchasing Agent to the vendor. The memorandum will request a written answer to ETHRA. Vendors who do not respond promptly are subject to disqualification in future bidding.

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Cancellation of purchase orders will be in writing by the Purchasing Agent. A contractor may request cancellation and ETHRA may grant relief. ETHRA has the right to disqualify any contractor who defaults from future bidding.

Payment may be withheld until such time as all requirements of the purchasing contract have been complied with in full.

*Note: Grantor approval should always be obtained before permitting or making any changes in contract terms, service delivery, or product specifications from those specified in the original contract. A copy of the grantor's approval should be retained in the contract file.*

**Vendor Protests**

Resolving controversies concerning protest of qualification of bidders, suspension from bidding and Invitation to bid, and stay of award prior to actual award shall be resolved in the manner provided herein. Vendors who disagree in any of the aforementioned areas may document their position in writing and request re-evaluation. If the re-evaluation does not resolve the disagreement, the vendor may request evaluation of the record, including the written protest documentation, through a hearing with the Executive Director. The evaluation by the Executive Director constitutes the final determination for the Agency. However, the vendor may request an appeal in writing to the Board of Directors. A hearing may be scheduled before a committee of the Board of Directors for resolution of the disagreement.

**Affirmative Action and Equal Opportunity Statement**

All prevailing civil rights legislation will be adhered to and strictly enforced. Section 188 of the workforce Investment Act of 1998 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and status of a lawfully admitted immigrant authorized to work in the United States.

ETHRA is an Equal Opportunity Employer/Program/Service Provider. Auxiliary aids and services are available upon request to individuals with disabilities. For more information contact Steve Bandy, Title V Equal Opportunity Officer by emailing [sbandy@ethra.org](mailto:sbandy@ethra.org).

**Taxes**

Prices quoted by vendors shall not contain provisions for Federal Excise Taxes or State Sales Tax. ETHRA is exempt from such taxes.

		<b>STATEMENT of POLICY and PROCEDURE</b>		
		<b>SUBJECT: Purchasing Policy &amp; Procedures</b>		
Date Effective:	<b>10/08/2019</b>	Approved by:	<b>Gary Holiway, Executive Director</b>	<b>Policy No.</b>
Prior Revision:	<b>04/11/2017</b>	Adopted By Board:		<b>OPS-080</b>

**Liability Claims and Damages**

ETHRA, its officers, agents, and employees shall be held harmless from liability from any claims, damages and actions of any nature arising from the use of any materials furnished by the vendor, provided such liability is not attributable to negligence on the part of ETHRA or failure by ETHRA to utilize the materials in the manner outlined by the vendor in descriptive literature or specifications submitted with the vendor's bid.

**Related Policies**

Other ETHRA polices related to purchasing include the following:


- o *GEN-020 Code of Business Conduct*
- o *GEN-040 Vendor Gift Policy*
- o *GEN-060 Whistleblower Policy*
- o *GEN-090 Data Retention Policy*
- o *OPS-060 Fuel Purchasing Card Policy*
- o *OPS-JOO Vehicle Management Policy and Procedure*
- o *FIN-020 Credit Policy*
- o *OPS-130 Bid Analysis Guidelines*

		<b>STATEMENT of POLICY and PROCEDURE</b>		
		<b>SUBJECT: Purchasing Policy &amp; Procedures</b>		
Date Effective:	<b>10/08/2019</b>	Approved by:	<b>Gary Holiway, Executive Director</b>	<b>Policy No.</b>
Prior Revision:	<b>04/11/2017</b>	Adopted By Board:		<b>OPS-080</b>

**Questions or Clarifications Related to This Policy**

All questions or other clarifications of this policy and its related responsibilities should be addressed to the Executive Director, who shall be responsible for the administration, revision, interpretation, and application of this policy.


*Approval*

  
 \_\_\_\_\_  
 Board Chair

10/8/19  
 \_\_\_\_\_  
 Date

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

10/8/19  
 \_\_\_\_\_  
 Date

		<b>STATEMENT of POLICY and PROCEDURE</b>		
		<b>SUBJECT: ADDENDUM to Purchasing Policy &amp; Procedures</b>		
Date Effective:		Approved by:	<b>Gary Holiway, Executive Director</b>	Policy No.
Prior Revision:	<b>10/08/19</b>	Adopted By Board:	<i>1/12/2021</i>	<b>OPS-080</b>

**Addendum to Purchasing Oversight Committee Section (Page 4)**

Per the original policy last revised 10/08/2019, the Purchasing Oversight Committee is required to review all purchases exceeding \$25,000, among other specific procurement situations; and said committee is comprised of “the Financial Director, the Legal Advisor/ Compliance Officer, and the Purchasing Agent” (i.e., the IT/IS Director). The original policy additionally states that committee reviews “must be reduced to writing, dated, signed, and then preserved in the transaction file.”

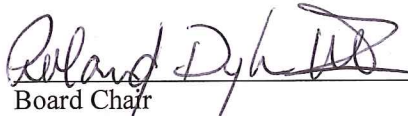
This addendum hereby adds the following language to the original text of the “Purchasing Oversight Committee” section:

The Human Resources Director is hereby included as an additional member of the Purchasing Oversight Committee.

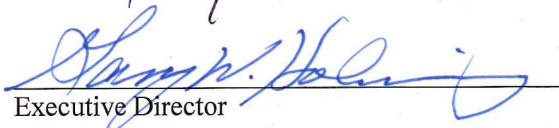
To avoid real or apparent conflicts of interest, a Purchasing Oversight Committee Member is not permitted to approve a transaction when the party who initiated the procurement is either the Committee Member, or a close relative or personal associate of the Committee Member.

Any review conducted by the Purchasing Oversight Committee must be documented on the POC Review Form (attached as Exhibit A), and signed and dated by at least two Committee Members. Completed POC Review Forms must be maintained by the IT/IS Director in the associated transaction files.

**Approval**

  
Board Chair

*1/26/21*  
Date

  
Executive Director

*1/12/2021*  
Date

**Exhibit A**

**Purchasing Oversight Committee Review Form**

Program: \_\_\_\_\_ Date: \_\_\_\_\_

Manager Submitting Request: \_\_\_\_\_

Procurement Amount: \$ \_\_\_\_\_

Purchasing Request for \_\_\_\_\_ (describe goods or services)

Category of Transaction triggering Committee Review: (mark all that apply)

"Small Purchase" between \$25,000 (level required for committee review) and \$50,000

"Large Purchase" over \$50,000 (bids must be attached)

Technology Acquisition (hardware, software, peripherals, new subscription service) (NOTE: IT/IS Director cannot sign as member of Purchasing Oversight Committee.)

Goods or Services of a Sensitive Nature

Consultant Contract

Request to Purchase Vehicle(s)

Exceptions Proposed:

State Contract Acquisition

Sole Source Purchase (requesting party must submit detailed written explanation)

Emergency (requesting party must submit detailed written explanation)

Blanket PO (bids must be attached)

Product produced by State Agency

POC Review Notes (include documents reviewed, factors considered, & other relevant information):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check this box if Review Notes have been continued on separate page.

POC Approvals:

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



**NORTHWEST TENNESSEE HUMAN  
RESOURCE AGENCY**

## PROCUREMENT POLICY

### BACKGROUND

Northwest Tennessee Human Resource Agency (“Nwthra”) was established pursuant to the Human Resource Agency Act of 1973, as amended, as a not-for-profit delivery system designed to implement human services programs. The Nwthra is empowered to own and dispose of property both real and personal and to receive and administer funds and contributions from private and public sources which may be used in support of human resource programs, and other funds under State and Federal assistance programs.

### SCOPE

The Policy applies to all company Employees who purchase supplies, equipment or services, and/or select Vendors providing such items.

### PURPOSE

The Procurement Policy, issued by the Nwthra, shall describe the procedures that are to be followed by Nwthra in the handling of procurement activities and to provide direction and ensure a process for the review of the purchase of supplies, goods and services.

### DEFINITIONS

1. **“Award”** means a notice to a respondent of a solicitation of the acceptance of a bid or proposal.
2. **“Bid”** means an offer, as a price, whether for payment or acceptance given to a prospective purchaser upon his or her request, usually in competition with other offers. Also, an offer by a buyer to a seller, as at an auction.
3. **“Competitive Bidding”** means purchases of items that, by their nature, have sufficiently uniform and impersonal criteria so that their purchase may be based on conformance with required specifications and lowest overall price, may be procured based on price quotes received from a number of prospective Vendors, as specified by the Executive Director and included in Section 2.
4. **“Employee”** means any officers, employees, or staff members of Nwthra.
5. **“Executive Director”** means the Nwthra Executive Director or designee.
6. **“Invitation to Bid (ITB)”** means a request, verbal or written, which is made to prospective suppliers requesting the submission of a bid on commodities or services. This includes all documents, whether attached or incorporated by reference, utilized for soliciting bids.
7. **“Proprietary”** means a good or service that is used, produced, or marketed under exclusive legal right of the inventor, maker or service provider that is protected under trade secret, patent, trademark, or copyright law.
8. **“Protest”** means a written complaint filed by an aggrieved party in connection with a solicitation or award of a contract by the Nwthra.

9. **“Purchase Order”** means a purchaser's document used to formalize a purchase transaction with a Vendor. A purchase order, when given to a Vendor, may contain statements as to the quantity, description, and price of the goods or services ordered; agreed terms, and all other agreements pertinent to the purchase and its execution by the Vendor.
10. **“Request for Proposals (RFP)”** means a written solicitation for written proposals to provide goods or services.
11. **“Request for Qualifications (RFQ)”** means a process that is used to obtain a statement of qualifications from proposers.
12. **“Purchase Requisition”** means the form used to request the purchasing department to purchase goods or services from Vendors that cost between \$500 and \$10,000.
13. **“Request for Information (RFI)”** means a solicitation sent to a broad base of potential suppliers for the purpose of developing strategy, building a database, or preparing for a Request for Proposals or a Request for Qualifications.
14. **“Sole Source Procurement”** means a procurement for which only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility or a situation where a particular supplier or person is identified as the only qualified source available to the requisitioning authority.
15. **“Vendor”** means a person or legal entity with the legal capacity to enter into contracts and sue and be sued who provides goods or services to the Nwthra through a contract or a purchase order.

## POLICY

### 1. INTRODUCTION

#### 1.1 Standard of Conduct

- 1.1.1 No officer, Employee, or agent of the Nwthra shall unlawfully benefit directly or indirectly from the purchasing of materials or services by the Nwthra. All transactions shall be conducted in a manner so as to provide maximum open and free competition. Contractors cannot draft specifications, requirements, statement of work, ITBs, or RFPs. Nwthra will not place unreasonable requirement on firms in order to do business with them. Unnecessary experience or excessive bonding requirement will not be placed on firms in order to do business with them. The recipient will not support acquiesce in noncompetitive pricing practices between firms or between affiliated companies and will not enter into non-competitive contracts with a vendor on retainer. In-State or other geographic preferences shall not be used in evaluation of bids.
- 1.1.2 Nwthra shall adhere to and strictly enforce all prevailing civil rights legislation. Nwthra complies with Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. § 2000D, which states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal assistance.” Nwthra does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities in compliance with ADA (Americans with Disability Act of 1990), 42 U.S.C. § 12101.

- 1.2 Competitive Bidding Process. All purchases shall be based upon the principle of competitive bidding except as herein provided. Whenever possible, all specifications for materials, supplies, equipment and services shall be worded or designed so as to permit open and competitive bidding for the supplying of the article, commodities or services to which they apply. It is the responsibility

of the Executive Director to ensure all competitive bidding is considered fair and open in a bid process. It will be considered open and competitive bidding by utilizing one of the purchasing techniques set forth in Section 2 below.

- 1.3 **Initiation of Purchases**. Employees may requisition specific items for the purpose of carrying out their work assignments. After the Purchase Requisition is completed and approved, orders will be placed by the Executive Director. Any Employee that makes a purchase in violation of these policies may be held personally responsible for payment.
- 1.4 **Purchase Requisition**. Purchase Requisitions shall be required for those items so identified in this Policy. All Purchase Requisitions shall be reviewed by the Executive Director. Each Purchase Requisition that is approved and processed by the Executive Director results in a Purchase Order. All Purchase Orders will be assigned an identification number and that number shall appear on invoices and receipts as appropriate. Purchases are authorized on consecutively numbered Purchase Order forms by the Executive Director. Purchase Orders shall not be required for items below the threshold amount as set forth in Section 2.2.1 and Section 2.2.2 or for specific items listed in Section 2.12 of this policy. This procedure is intended to avoid the purchase of unnecessary property and services. Consequently, any employee who makes a purchase in violation of these policies may be held personally responsible for payment.
- 1.5 **Specification Requirements**
  - 1.5.1 Specification requirements shall be based upon a clear and accurate description of the technical requirements for the material, product or service. The absence of such detail shall be recognized as meaning that only the best commercial practices are to prevail and that only first quality materials and workmanship are to be used. Reference to brand names, trade names, model numbers or other appropriate identification should be included to establish the required level of quality and functional capabilities. Comparable products of other manufacturers will be considered if proof of comparability is contained in the bid. Provision of such proof is the total responsibility of the Vendor and could include such things as brochures, catalog pages or other data, attached to the bid.
  - 1.5.2 Wherever possible, all specifications for materials, products or services to be purchased by the Nwthra shall be worded or designed so as to permit open and competitive bidding for the supplying of such items or services to which they apply.
- 1.6 **Vendor Selection**
  - 1.6.1 All Vendors providing supplies, equipment or services must be reputable and responsible organizations having the demonstrated capacity to produce or provide services within a reasonable period of time as established by the Nwthra. Vendors shall be subject to disqualification if they are found to misrepresent quality, quantity, or price. Vendors can be determined responsible through and an examination of the firm on the SAM.gov website.
  - 1.6.2 Selection of Vendor shall be based primarily on price, geographical location and past performance of the Vendor, as well as its apparent ability to provide the good or service.

## **2. TYPES OF BIDS, PURCHASES, AND REQUIREMENTS**

The following are the purchasing methods that may be utilized for the purchase of goods and/or services:

- 2.1 **Small Purchases**
  - 2.1.1 **Description of Small Purchases**. Nwthra will use competitive methods whenever practicable. Nwthra, however, may utilize a small purchase authority without soliciting quotes or proposals from multiple suppliers when the total value of a contract or a purchase will cost less than \$500.00. Except as provided below in Section 2.2.2 for Vehicle

Maintenance purchases between \$0.00 and 799.99, such goods or services will be purchased pursuant to the Program Director’s instructions.

2.1.2 **Conditions of Use for Small Purchase.** Small purchase authority may be used for goods or services not exceeding \$500.00, and must be purchased pursuant to the Program Director’s instructions. It is important to note that no procurement shall be artificially divided or split in order to fall within such amounts approved. Similarly, if purchases that fall within the small purchase authority are of a recurring nature and the aggregate total exceeds such amounts, the contract is presumed to exceed the small purchase authority and a competitive procurement method must be used (e.g., RFP, ITB or informal quotes).

2.1.3 **Small Purchase Approval Process.** Small Purchases must be approved pursuant to the Program Director’s instructions prior to communication or issuance of a contract or purchase order to a supplier of goods or services.

2.2 **Informal Purchase.** Purchases that are less than \$10,000.00 do not require sealed bids, and may be written, telephone or electronic, except as provided below:

2.2.1 **Durable and Consumer Goods**

Purchase Price	Purchasing Requirement
\$500 - \$10,000	Requires that Nwthra secure at least three (3) competitive bids. Must be purchased using a Purchase Requisition and Purchase Order, with approval from the Program Director, and either: (1) the Executive Director; or (2) the Finance Department.
\$10,000 and Up	Must utilize a sealed bid process unless the item is available under a Federal, state or local government contract.

2.2.2 **Vehicle Maintenance**

Estimated Cost	Purchasing Requirement
\$0 - \$799	Must be procured from a Vendor on the “Approved Vendor List,” and with approval from the Nwthra Transportation Director.
\$800 - \$1,999	Must be purchased using a Purchase Requisition and Purchase Order, with approval from the Program Director and either: (1) the Executive Director or (2) the Finance Department.
\$2,000 and Up	Must be purchased using a Purchase Requisition and Purchase Order, with approval from the Program Director and the Executive Director.

2.2.3 **FTA Micro Purchases**

Despite the foregoing purchasing requirements, purchases reimbursed with FTA grants of \$3,000.00 or less are defined as micro-purchases pursuant to FTA Circular 422.1F. Micro-purchases do not require competitive quotes if Nwthra considers the price to be reasonable. To the extent practicable, Nwthra will distribute micro-purchases equitably among qualified suppliers. Nwthra will maintain documentation that the micro-purchase price was both reasonable and fair. Although competitive quotes are not required, any construction contracts over \$2,000.00 shall comply with the Davis Bacon prevailing wage requirements.

2.3 **Invitation to Bid (ITB)/Sealed Bid Process.** Nwthra shall strive to obtain at least three (3) sealed bids on all purchases which exceed \$10,000, except as otherwise provided in this policy. All sealed bid requests/invitations to bid shall be approved by the Finance Department prior to issuance. Nwthra will conduct sealed bids in accordance with the requirements of 2 C.F.R. §

200.300(c). Please see Exhibit 1 for a description of the invitation to bid process. In the event that this policy, including Exhibit 1, ever conflicts with 2 C.F.R. § 200.300(c), NWTTHRA will follow the requirements of 2 C.F.R. § 200.300(c).

- 2.4 **Request for Proposals (RFPs)**. RFP are usually conducted with more than one source submitting an offer and either a fixed price or cost-reimbursement type contract is awarded. RFP are generally used when conditions do not warrant the use of sealed bids. The nature of these procurements is often such that price will not determine to whom the contract should be awarded. As such, it is expected that NWTTHRA may have discussions with bidders after bids have been submitted. NWTTHRA shall use the formal process of written proposal for certain services that exceed \$10,000 and for which an RFP shall be issued by NWTTHRA that identifies the criteria to be met. When a RFP is used, NWTTHRA will comply with the requirements of 2 C.F.R. § 200.320(d). Please see Exhibit 2 for a description of the RFP process. In the event that this policy, including Exhibit 2, ever conflicts with 2 C.F.R. § 200.320(d), NWTTHRA will follow the requirements of 2 C.F.R. § 200.320(d).
- 2.5 **Request for Qualification (RFQ)**. Request for Qualifications is a written solicitation containing a list of qualifications that must be met before a vendor may propose in response to a Request for Proposals. A written response from a vendor is the appropriate response to a Request for Qualifications. A RFQ is a document that may be distributed before initiation of the Solicitation process. It is used to gather information from potential vendors regarding qualifications of providers of goods and services within the market place.
- 2.6 **Request for Information (RFI)**. A Request for Information is a solicitation sent to a broad base of potential suppliers for the purpose of developing strategy, building a database, or preparing for a Request for Proposals or a Request for Qualifications. A RFI enables an equitable and simultaneous comparison of vendors. NWTTHRA may use this tool to gather information about the availability of goods or services. A RFI may be utilized when:
- 2.6.1 NWTTHRA has a procurement need, but requires more information to fully understand the industry;
- 2.6.2 NWTTHRA desires to identify vendors who are available to supply the needed good or service; or
- 2.6.3 When NWTTHRA determines that a RFP process will benefit from a RFI.
- 2.7 **Proprietary/Single Source**
- 2.7.1 Proprietary or single source purchases shall be allowed. These purchases are those generally associated with restricted brands or models but for which bids or quotes may be obtained from distributors or dealers. Single source purchases may be arranged without benefit of bid when an item or service is unique and has specific characteristics that can be filled by only one source. Such purchases shall be allowable on the basis that no other Vendor could reasonably provide the item(s) or services using the procedures as herein provided. All such purchases shall adhere to the provisions as herein contained.
- 2.7.2 A justification for single source or proprietary purchases must be included in the file. In making the final determination, the Executive Director should consider at least the following:
- 2.7.2.1 Whether the Vendor legally possesses exclusive or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from similar products;
- 2.7.2.2 Whether the product or service is unique and easily established as one of a kind;
- 2.7.2.3 Whether the product requirements can be modified so that competitive products or

services may be used;

2.7.2.4 Whether the product is available from only one source and not merchandised through wholesalers, jobbers, or retailers;

2.7.2.5 Whether items must be interchangeable or compatible with in-place items.

2.7.3 After review of the written justification from the requisitioning department and ascertaining that the item to be purchased meets one or several of the aforementioned criteria, the single source purchase may be made without following competitive bid procedures as herein contained. The Executive Director should document noting the review is complete and accepts the conclusion. This statement along with a written quote from the supplier should be placed in the file.

2.8 **Federal, State and Local Government Contracts.** Nwthra may purchase, without using the formal procedures as herein contained, goods and services through a Federal, state or local government contract, which has been duly negotiated by such authorized entities.

2.9 **Personal, Professional or Consultant Services.** Where the Nwthra desires to procure personal services, professional services and/or consultant services, the Nwthra shall either follow the requirements as specified herein or, as appropriate, utilize a method that is determined to be fair and open to competition. The process shall include a consideration and comparison of potential contractors, based upon factors such as service provider qualifications, experience, and technical approach.

2.10 **Emergency Orders.** Emergency orders may be placed by the Executive Director when immediate delivery is necessary to meet emergencies from unforeseen causes for continuation of services. A written memo must be attached to the file copy of the purchase order. All emergency purchases shall, if practicable, be made on the basis of at least the use of price quotes.

2.11 **Exceptions.** Nwthra shall not be required to utilize the purchasing methods in Section 2 for the items or services that have sufficiently uniform and impersonal criteria, so that their purchase is based upon conformance with certain specifications and lowest overall price including but not limited to the following items:

2.11.1 Telephone billings;

2.11.2 Freight charges not incurred in connection with the purchase of supplies and equipment;

2.11.3 Postage including purchase of metered postage;

2.11.4 Charges on airlines and gasoline credit cards;

2.11.5 Bonding fees or notary public fees;

2.11.6 Utility billings and connection fees;

2.11.7 Tuition, fees and other supplies for training of individuals, or other purchases at institutions which courses of study are on the approved THEC list, provided such expenses do not exceed \$1,000;

2.11.8 Occasional charges for rooms for meetings and attendant costs;

2.11.9 Rental of vehicles while on approved travel;

2.11.10 Rental or leasing of office and storage space;

2.11.11 Or other contractual agreement with detailed documentation provided for within the agreement; and

2.11.12 Newspaper advertisements or listings.

### **3. WITHDRAWALS, REVISIONS AND REJECTION OF BIDS**

- 3.1 Before bid opening, a vendor may be permitted to withdraw a bid entirely and/or submit a substitute bid. The vendor making such a request must submit suitable identification.
- 3.2 After bid opening, a vendor will be permitted to withdraw a bid only where there is obvious clerical error in the bid such as a misplaced decimal point, or where enforcement of the bid would impose unconscionable hardship due to an error in the bid resulting in a quotation substantially below the other bids received. Withdrawal will be considered only upon written request from the vendor. In cases of errors in the extension of prices in the bid, the unit price will govern.
- 3.3 A bid may not be revised after bid opening. However, after evaluation is complete and the successful bidder/proposer selected, Nwthra may initiate negotiations which serve to alter the bid/proposal in a way favorable to Nwthra. In no event shall negotiations increase the cost or amend the proposal such that the apparent successful proposer no longer offers the best proposal.
- 3.4 Any proposal that restricts the rights of Nwthra or otherwise qualifies or limits the proposal may be considered to be non-responsive, and the proposal may be rejected.
- 3.5 When it becomes necessary to reject all bids, the reason for such rejection must be set out in complete detail and made available to all bidders who submitted a bid.
- 3.6 Action to reject all bids shall be taken only for unreasonably high prices, errors in the invitation to bid/RFP, cessation of need, unavailability of funds, failure of all proposals to meet technical specifications, lack of competition, or a determination that proceeding with the procurement would be detrimental to the best interests of Nwthra, the reason for which must be documented and approved by the Executive Director or his or her designee.
- 3.7 If another RFP is to be issued, all prior offers and/or proposals shall remain closed to inspection by the proposers and/or the public until the evaluation of the re-bid is complete.

### **4. SINGLE RESPONSE TO SOLICITATION**

In the event that only one response is received by the Nwthra by the response deadline in response to a solicitation, Nwthra may elect one of the following actions:

- 4.1 Nwthra may cancel the solicitation based upon insufficient competition.
- 4.2 Open the response to determine whether it meets minimum requirements. If it does not meet minimum requirements, Nwthra may then cancel the solicitation;
- 4.3 If the response meets minimum requirements, Nwthra may open the cost proposal and negotiate with the single respondent; or
- 4.4 Nwthra may approve or cancel the solicitation if the cost is deemed excessive after attempts at negotiation.

### **5. TIE BIDS**

- 5.1 **Goods.** A tie bid exists when two or more bidders offer goods and/or services that meet all specifications, terms and conditions at identical prices, including cash discount offered. In such cases, a tie bid will be broken by the following methods, in descending order of preference:
  - 5.1.1 Tennessee businesses will be given preference.



- 5.1.2 Small, minority and women-owned business will be given preference.
- 5.1.3 Award item(s) to vendor who was low bidder on other item(s) being bid per the same requisition.
- 5.1.4 Best delivery.
- 5.1.5 By lot or coin toss (properly witnessed and documented).
- 5.2 **Personal, Professional and Consultant Services.** In the event that a proposal evaluation process results in two or more proposals receiving evaluation scores that tie for the rank of highest score, the institution shall request best and final cost proposals from only those proposers with scores that tie. Nwthra may calculate new evaluation scores for the tying proposals by adding the original technical scores to the recalculated cost scores. Should another tie result, the contract shall be awarded by coin toss.
- 5.3 **Architectural and Engineering Services.** Nwthra will use the qualification based procedure described below for architectural and engineering services that are directly in support of, directly connected to, or lead to construction, alteration, or repair of any real property. This may include, but is not limited to, program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, and mapping.
  - 5.3.1 Nwthra will review prospective bidder's technical approach and qualifications and determine which bidder is the most qualified prospective bidder. Nwthra will then send the most qualified prospective bidder the solicitation.
  - 5.3.2 Nwthra will first negotiate with the most qualified prospective bidder. If Nwthra and that bidder cannot agree on a fair and reasonable price, Nwthra will negotiate with the next most qualified prospective bidder.
  - 5.3.3 Price will be excluded as an evaluation factor.

## 6. NOTICE OF INTENT TO AWARD

A Notice of Intent to Award shall be communicated in writing or by electronic transmission to all respondents. Each contract shall be awarded by the Nwthra with reasonable promptness to the apparent winning respondent (e.g., on the basis of highest evaluation score or lowest cost), whose response meets the requirements and criteria set forth in the solicitation. Where more than one item is specified in a solicitation, Nwthra reserves the right to determine the winning respondent, or respondents in the case of a multiple award, either on the basis of each individual item, a group of items, or the total of all items, unless otherwise provided in the solicitation.

## 7. OPEN FILE PERIOD

After the Nwthra completes the award recommendation process and notifies the respondents of the official award recommendation, the procurement file shall be open and available for public inspection for at least seven (7) calendar days prior to the actual award of the contract. The procurement file should contain, at a minimum, a copy of the solicitation, relevant correspondence between the solicitation coordinator and any respondents, responses to the solicitation, including clarifications and information gathered at oral presentations as applicable, score sheets, relevant spreadsheets used in analyzing the technical responses and cost proposals, all responses to target price or BAFO negotiations, and the intent to award letter sent to the awarded respondent.

## 8. AWARD

Once the open file period has passed and no protests have been received, Nwthra may begin the award process. The Executive Director is responsible to ensure that all necessary approvals have been obtained prior to contract closeout. The Executive Director must approve all contracts before it is considered to be fully executed.

## **PROTESTS/CONTROVERSIES/DISPUTES**

- 8.1 Resolving controversies/disputes concerning protest of qualifications of bidders, suspension from bidding, and invitation to bid process, and stay of award prior to actual award shall be resolved in the manner provided herein.
- 8.2 Vendors who disagree in any of the aforementioned areas may document their position and protest in writing and request reevaluation within seven (7) days of the bid opening or award. This reevaluation shall be initiated by the person or person(s) who were responsible. They shall review and provide a memorandum to the Executive Director.
- 8.3 All relevant levels of administration shall review the reevaluation and make written comments regarding their thoughts and recommendations. The Executive Director or designee shall review the reevaluation, make a determination and notify the Vendor of the decision. If the reevaluation does not resolve the disagreement, the Vendor may request evaluation of the record, including the written protest documentation, through a hearing with the Executive Director.
- 8.4 The Executive Director shall issue a letter to the bidder(s) as to his/her findings and decisions. The evaluation by the Executive Director shall be submitted to the Executive Committee for review. This process shall constitute the final determination for the Agency.
- 8.5 Neither a protest nor a stay of award shall proceed under this section unless the protesting party posts a protest bond. The protesting party shall post, with the Executive Director of, at the time of filing a notice of protest, a bond payable to the institution in the amount of five percent (5%) of the lowest cost proposal evaluated or five percent (5%) of the highest revenue proposal evaluated. Such protest bond shall be in form and substance acceptable to the institution and shall be immediately payable to the institution conditioned upon a decision by Nwthra that:
  - 8.5.1 The protest has been brought or pursued in bad faith; or
  - 8.5.2 The protest does not state on its face a valid basis for protest.
- 8.6 Nwthra shall hold such protest bond for at least eleven (11) calendar days after the date of the final determination by Nwthra.
- 8.7 Nwthra will notify FTA when it receives a protest and upon any denial of a protest.

## **9. CONTRACT MANAGEMENT**

Once a contract has been awarded and duly approved, a contractual relationship exists between Nwthra and the awarded respondent. The Nwthra procurement professional responsible for managing the contract should do all of the following:

- 9.1 Maintain a detailed, written audit trail of all discussions and agreements.
- 9.2 When documenting contracting party tasks, the operative phrase is “the contracting party shall.”
- 9.3 Clearly define roles and responsibilities
- 9.4 The rules of engagement may include onsite attendance requirements if necessary, but if so, these requirements should be clearly communicated.
- 9.5 Clearly define and communicate any implementation strategies.
- 9.6 Reserve the right to review contracting party designs and request necessary changes.

- 9.7 Request submittal of test plans in advance for approval.
- 9.8 Specify documentation required from the contracting party, including media and format.
- 9.9 Specify support and maintenance to be provided to the contracting party or Nwthra.
- 9.10 Prearrange change control processes and pricing.
- 9.11 Specify that any training provided by the contracting party, the cost of which is not included in the contract price, must be preapproved by Nwthra.

**10. DOCUMENT RETENTION & RIGHT TO AUDIT**

- 10.1 Procurement History. All procurement documentation (in electronic or paper form) should be maintained for a minimum of five (5) years. Such documentation shall include, at a minimum, a copy of the solicitation, relevant correspondence between the solicitation coordinator and any respondents, responses to the solicitation, including clarifications and information gathered at oral presentations as applicable, score sheets, relevant spreadsheets used in analyzing the technical responses and cost proposals, all responses to target price or BAFO negotiations, and the intent to award letter sent to the awarded respondent. Nwthra will also keep a record of the method, the type of contract, contractor selection or rejection, and the basis for the contract price.
- 10.2 Right to Audit. Nwthra shall ensure that Vendors establish a reasonable invoice accounting system which enables ready identification of Vendor costs of goods and use of funds. Nwthra or its representative may audit the Vendor's records any time before four (4) years after final payment (or until all disputed claims have been settled, whichever is longer) to verify the Nwthra's payment obligation and the use of state funds. This right to audit shall include subcontractors from whom goods or services are subcontracted by the Vendor. Vendor shall ensure Nwthra has these rights with subcontractors. Any disputed claims will be verified by an independent auditor at the cost of the Nwthra unless the Vendor is found to have overcharged Nwthra in which case the Vendor will pay the cost of the audit as well as repay all overcharges.

**11. EXTENSIONS, RENEWALS AND RE-PROCUREMENTS**

- 11.1 Contract Extensions. If provided for in the contract, contracts may be extended for any monthly increment but the total of such extension periods shall not exceed 12 months. Extensions beyond the 12-month period are subject to the provisions stated in the contract's renewal clause.
- 11.2 Renewals. Renewals may be granted subject to the provisions stated in the contract's renewal clause, if applicable.
- 11.3 Period of Renewal Following an Extension. If a contract is renewed after it has been extended for any period of time, the renewal term shall always begin with the date that the contract was first extended to limit the combined extension and renewal to a total 12-month period. This will preclude inadvertently or intentionally extending the total contract performance period beyond the initial base and renewal periods agreed to at the time of contract execution.
- 11.4 Re-Procurements. To the extent that a contract is terminated during its contemplated term or the original procurement process fails to produce a qualified vendor, Nwthra may initiate a re-procurement process in accordance with the purchasing methods set forth in Section 2.

**12. GENERAL PROVISIONS**

- 12.1 **Purchasing from Small, Woman-Owned, Tennessee Service-Disabled Owned and Minority-**

**Owned Businesses.** Nwthra shall actively promote and encourage diversity participation with small, minority, Tennessee Service-Disabled, and women-owned businesses in order to obtain a fair proportion of goods and services from such businesses.

12.2 **Acceptance of Gifts.**

12.2.1 If Nwthra is offered merchandise and/or equipment as an outright gift, permission to accept or receive such merchandise should be requested by letter to the Executive Director. A complete description of the merchandise or equipment and a clear statement of the conditions under which the gift or consignment is being offered should be given. Nwthra will secure administrative approval for acceptance. Acceptance should not be made until proper approval is received.

12.2.2 For purposes of this policy, a gift to the institution shall be defined as a voluntary transfer of goods or services to the institution made gratuitously and without consideration. Essential elements of a gift are: (i) capacity of the donor of the gift, (ii) intention of donor to make a gift, (iii) completed delivery of the gift to or for the institution, and (iv) acceptance of the gift by the institution.

12.2.3 Nothing in this policy shall be construed to mean that Nwthra must accept any gift.

12.3 **Lobbying Activity.** Nwthra shall use its best efforts to ensure that:

12.3.1 No federally appropriated funds have been paid or will be paid, by or on behalf of Nwthra or any Vendor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

12.3.2 Nwthra shall require that the language of this certification be included in the award documents for all Vendors at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that any sub-recipients shall certify and disclose accordingly.

12.4 **Revisions/Amendment.** Any revisions or amendments to the Purchasing Policies and Procedures set forth in the policy shall be submitted to the Nwthra's Executive Committee for review and approval.

12.5 **Taxes.** Nwthra is exempt from Federal Excise Taxes and State Sales Tax, and purchases shall be made in accordance with this tax status. For instance, prices quoted by Vendors shall not contain provisions for Federal Excise Taxes or State Sales Tax unless required by law.

12.6 **Conflict of Interest.** It shall be a breach of ethical standards for any Nwthra employee, in the performance of his or her official duties, to participate directly or indirectly in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal thereof, in which to his or her knowledge:

12.6.1 he or she or any member of his or her immediate family has a substantial financial interest; or

12.6.2 a business or organization in which he or she or any member of his or her immediate family has a substantial financial interest as an officer, director, trustee, partner or employee, is a party; or

12.6.3 any other person, business, or organization with whom he or she or a member of his or her immediate family is negotiating or has an agreement concerning prospective employment is

a party.

Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing or in any other advisory capacity

- 12.7 **Time and Materials Contracts.** NWTHRA will only use Time and Materials contracts if it determines that there is no other type of suitable contract and if the contract includes a ceiling price that the contractor exceeds at its own risk.
- 12.8 **Buy America.** NWTHRA will ensure that applicable procurements comply with Buy America as stated in 49 U.S.C. § 5323(j).

### 13. CONTRACT COST AND PRICE

- 13.1 **Price or Cost Analysis.** NWTHRA will perform a cost/price analysis on any procurement that exceeds the \$250,000 Simplified Acquisition Threshold, including contract modifications. NWTHRA will conduct an independent cost estimate (ICE) before solicitation. The ICE may vary from a simplified budgetary estimate to a complex estimate, depending on the facts surrounding the procurement.
- 13.2 **Cost Analysis.** NWTHRA will conduct a cost analysis when (1) a price analysis will not provide sufficient information to determine the reasonableness of the contract cost; (2) the offeror submits elements of the estimated costs; and (3) price competition is inadequate (e.g., sole source) or the price was inconsistent with the ICE expected range. However, NWTHRA does not have to perform a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. When necessary, NWTHRA will conduct the cost analysis by obtaining an itemization of the costs that make up the total price of the good or service being quoted by the bidder (e.g., labor, materials, overhead, etc.). NWTHRA will negotiate profit as a separate element of the cost for each contract.
- 13.3 **Price Analysis.** NWTHRA will use a price analysis when the competition is adequate or price is consistent with the ICE expected range. The price analysis shall include a direct comparison between supplier's price and benchmark prices from ICE, other bids from competitors, or published prices on price lists, trade journals, etc.
- 13.4 **Cost Principles.** Cost principles will be in accordance with the Federal standards set forth in 2 C.F.R. § 200.400.
- 13.5 **Cost Plus.** NWTHRA will not use the cost plus a percentage of cost method or the percentage of construction cost method.

13.6

### 14. CONTRACT PROVISIONS

- 14.1 NWTHRA's contracts made under the federal award must contain provisions addressing the following topics as applicable:

- 14.1.1 Contracts that exceed the simplified acquisition threshold must address administrative, contractual, or legal remedies for instances in which contractors violate or breach contract terms and must provide for appropriate sanctions and penalties.
- 14.1.2 Contracts in excess of \$10,000.00 must address termination for cause and for convenience of NWTHRA, including the manner in which termination will be effected and the basis for settlement.
- 14.1.3 Except as provided under 41 C.F.R. Part 60, all contracts that qualify as a “federally assisted construction contract” under 41 C.F.R. Part 60-1.3 must include the applicable equal opportunity clause.
- 14.1.4 All prime construction contracts exceeding \$2,000.00 must include a provision requiring compliance with the Davis-Bacon Act for prevailing wage standards.
- 14.1.5 Where applicable, all contracts awarded in excess of \$100,000.00 that involve mechanics or laborers must include a provision requiring compliance with 40 U.S.C. §§ 3702 and 3704 and corresponding regulations.
- 14.1.6 If the award qualifies as a “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient desires to enter into a contract with a small business firm or nonprofit organizations regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. Part 401 and any corresponding regulations.
- 14.1.7 Contracts and subgrants exceeding \$150,000.00 must contain a provision requiring compliance with applicable standards, orders, or regulation issued pursuant to the Clean Air Act and the Federal Water Control Act and that any violations will be reported to NWTHRA and the regional office of the Environmental Protection Agency.
- 14.1.8 NWTHRA may not contract with parties listed on the governmentwide exclusions in the System for Award Management.
- 14.1.9 Contractors that apply or bid for an award exceeding \$100,000.00 must file the required certification under the Byrd Anti-Lobbying Amendment.

## 15. BONDING REQUIREMENTS

- 15.1 For construction or facility contracts or subcontracts that exceed the simplified acquisition threshold, the following minimum requirements apply:
  - 15.1.1 **Bid Guarantee.** Each bidder must provide a bid guarantee of five percent (5%) of the total bid price. The bid guarantee must include a firm commitment as an assurance that the bidder will, upon acceptance, execute the required contractual documents.
  - 15.1.2 **Performance Bond.** The third party contractor must obtain a performance bond for one-hundred percent (100%) of the contract price. This bond is executed in connection with a contract to secure fulfillment of all of the contractor’s obligations under the contract.
  - 15.1.3 **Payment Bond.** The third party contractor must obtain a payment bond for one-hundred percent (100%) of the contract price. This bond is executed in connection with a contract

to assure payment of all persons supplying labor and material in the execution of the work as stated in the contract.

**EXHIBIT 1**

**PROCEDURES FOR SEALED BIDS: INVITATIONS TO BID**

**1.0 SEALED BID/INVITATIONS TO BID PROCESS**

1.1 **Bid Submission.** Invitations to bid shall indicate that bids must be received by the Nwthra on or before a specified date or hour. In preparation of Invitations to Bid it shall be the intent of the Nwthra to set forth such invitations in a manner which, where possible, provides the following:

- 1.1.1 Terms and conditions clearly stating the requirements for the bid response and language to bind the parties in the event of award;
- 1.1.2 Clear and definitive specifications which shall, wherever possible, permit open and competitive bidding and minimize the likelihood of requests by prospective proposers for clarification;
- 1.1.3 Instructions for delivering the service requested or packaging, shipping, and delivering the commodity purchased, and, where appropriate, instructions for storage by the Vendor;
- 1.1.4 A timeline of the process that specifies deadlines;
- 1.1.5 A description of the factors to be considered in evaluating the proposals – factors may include but are not limited to service provider qualifications, experience, technical approach, and cost;
- 1.1.6 A declaration of the contract terms and conditions which shall be required; and
- 1.1.7 Any requirements for bid and/or performance bonds.
- 1.1.8 Bids should be returned in sealed envelopes, addressed in the follow manner:

*From* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*ATTN: PURCHASING DIVISION*

*NORTHWEST TENNESSEE HUMAN RESOURCE AGENCY*

*124 WELDON DRIVE*

*MARTIN, TENNESSEE 38237*

*DO NOT OPEN*

*SEALED BID*

*To be opened by:* \_\_\_\_\_

- 1.1.9 The Nwthra may cancel an invitation to bid any time prior to bid opening. Bids delivered past the date and hour designated for opening will be rejected and placed in the file unopened.
- 1.1.10 Invitations to bid may be mailed (in written or electronic form) to prospective Vendors. Invitations for bid may also be published in a newspaper of general circulation. Only one copy of a bid is required to be returned to the Nwthra. When a sealed bid is opened, examined and recorded, the original copy is placed in a file for evaluation by the Executive

Director.

- 1.1.11 The person signing the bid must be authorized to bind the Vendor to contract. A bid not signed will be rejected. Unsigned bids cannot be signed after the bid has been opened, even if the Vendor or his representative is present at the bid opening.
- 1.1.12 Terms and conditions established by the bidder must be noted conspicuously on the face of the invitation. If the conditions vary from the terms listed in the invitation to bid, the bid may be considered unresponsive and the proposal may be rejected.
- 1.1.13 Net pricing shall be requested for the units specified. Net price is list price less all trade or other discounts offered. Insertion of price escalator clauses, minimum order requirements, delivery costs, and other items should be listed where appropriate.
- 1.1.14 Erasures or use of correction fluid on bid forms are not acceptable. Errors may be corrected, prior to submission, by lining out and entering the substituted words or figures with the change initialed by the person signing the bid in ink. Bids shall not be altered or amended after the bid opening. In the case of errors in the extension prices, the unit price will govern. No corrections will be made in pencil.
- 1.1.15 Amendment or withdrawal of bids may be permitted under certain circumstances. Prior to the opening, a letter or email submitted to the Executive Director, or designee, may be used to withdraw a bid. Emails should not be used to amend a bid. After the opening, a Vendor may withdraw their bid when there is obvious error in cost data or where enforcement would impose considerable hardship. Consideration for withdrawal is at the sole discretion of the Executive Director or designee and can be made at the written (or e-mail) request of the Vendor. No change in bid price or provision of bids shall be made.
- 1.1.16 Questions concerning invitations to bid should be directed to the Executive Director or designee or other whose name, phone number or e-mail address is listed on the invitation to bid.
- 1.1.17 Bid files may be examined or reviewed during normal working hours, after completion of evaluation and prior to award. Request for review should be made through the Executive Director.
- 1.1.18 **Rejection of Bids.** The Executive Director may reject any or all bids. Action to reject all bids shall be taken for unreasonably high prices, errors in the invitation to bid, cessation of need, unavailability of funds, or any other reason approved by the Executive Director.
- 1.1.19 **Bonds.** As appropriate, any bonds which are required shall be stated in the invitation. To the extent possible, such bonds shall comply with the rules and regulations which apply to the State of Tennessee or the grant or contract, whichever is more restrictive.

## 2.0 AWARD PROCESS

- 2.1 Bids shall be awarded to the lowest bidding, qualified responsible and responsive Vendor considering the factors stated in the invitation. Such factors may include but not be limited to:
  - 2.1.1 Apparent ability to perform, including past performance;
  - 2.1.2 Price;
  - 2.1.3 Quality;
  - 2.1.4 Purpose or use;
  - 2.1.5 Discount for payment;
  - 2.1.6 Freight; and
  - 2.1.7 Delivery date.



- 2.2 The invitation to bid sets forth the evaluation criteria to be used. No criteria or factors may be used in bid evaluations that are not set forth in the invitation to bid.
- 2.3 Where more than one item is specified in the invitation, the Nwthra reserves the right to determine the lowest bidding Vendor, either on the basis of each individual item, or group of items, or total of all items, unless otherwise stated in the invitation to bid.
- 2.4 Tie bids may exist where two or more Vendors offer products that meet all specifications, terms and conditions at identical prices. Tie bids will be broken by the following methods, in descending order of preference:
  - 2.4.1 In-state businesses;
  - 2.4.2 Small businesses;
  - 2.4.3 Award item(s) to Vendor who was low Vendor on other item(s) being on the same requisition;
  - 2.4.4 Best delivery; and
  - 2.4.5 By lot or coin toss.

### **3.0 PROCEDURES AND GUIDELINES FOR VENDORS**

- 3.1 Notice of back orders, when necessary, should be presented to the Nwthra in writing, specifying expected shipping or delivery date.
- 3.2 Product deficiencies or Vendor non-compliance will be reported to the Vendor in writing by the Executive Director. The notification shall request a written response from the Vendor to the Nwthra. A Vendor may be removed from a list of eligible Vendors for failure to follow the published procedures and requirements. Failure to cure non-compliance may also result in removal of the Vendor from the approved list of bidders.
- 3.3 Cancellation of purchase orders shall be in writing by the Executive Director or his designee. A contractor may request cancellation and the Nwthra may grant this request when it is deemed to be in the Nwthra's and/or general public's best interest to do so. The Nwthra has the right to disqualify any contractor from future bidding if the contractor has defaulted on any previously awarded contract.
- 3.4 Payment may be withheld until such time as all requirements of the purchasing contract have been complied with in full.

### **4.0 PROCEDURES FOR PURCHASE ORDERS AND BILLINGS**

- 4.1 Purchase orders will be computer generated and signed by the Executive Director. The original purchase order will be submitted to the Vendor only when required by the Vendor.
- 4.2 Billings will be matched with the invoice and purchase order as materials are received by the Nwthra.
- 4.3 Review for payment will be by the Executive Director. The invoice, purchase order, and receiving slip, where applicable, will be reviewed by the Financial Department prior to certification for payment.

## EXHIBIT 2

### PROCEDURES FOR REQUEST FOR PROPOSALS (RFPS)

#### **1.0 REQUEST FOR PROPOSALS (RFPS)**

The formal solicitation of written proposals shall comply with the following requirements:

- 1.1 NWTHRA shall prepare and issue an RFP and evaluate proposals in accordance with this policy. Failure by NWTHRA to comply with said rule and policy alone shall not be deemed a defect requiring rejection of all bids, said decision remaining in the discretion of NWTHRA.
- 1.2 An RFP shall set forth specific provisions in accordance with this policy including:
  - 1.2.1 a clear and accurate description of the technical requirements for the service to be procured - the service technical requirements and scope shall not contain features which unduly restrict competition and shall be in sufficient detail to minimize the likelihood of requests by potential proposers for clarification;
  - 1.2.2 instructions regarding the submission of proposals;
  - 1.2.3 a timeline of the RFP process that specifies deadlines - service providers shall be given a reasonable time, as determined by NWTHRA, to consider the required scope of services and the proposal evaluation factors before proposals must be submitted;
  - 1.2.4 requirements and restrictions regarding the RFP;
  - 1.2.5 a description of the factors to be considered in evaluating the proposals – factors may include but are not limited to service provider qualifications, experience, technical approach, and cost; and
  - 1.2.6 a declaration of the contract terms and conditions which shall be required by NWTHRA.
- 1.3 Upon approval, NWTHRA shall send an actual RFP document or a formal notice stating that the specific RFP has been released to a documented list of potential service providers. Notice of a RFP may also be published in a newspaper of general circulation. NWTHRA shall compile the list of potential service providers from those known to the NWTHRA staff. NWTHRA shall determine the number of service providers to include on the list by considering the nature of the service sought, the anticipated dollar amount of the resulting contract, and the number of known service providers.
- 1.4 NWTHRA is not required to send an RFP or RFP Notice to more than a total of fifteen (15) service providers provided, however, that NWTHRA shall disseminate the RFP or RFP Notice as required by this policy and to all that request the specific RFP. A general or standing request for notice of all RFPS or all RFPS of a given type of service shall not suffice as a request for a specific RFP and shall create no obligation on NWTHRA.
- 1.5 To foster the integrity of the RFP evaluation process, each proposer shall be required to submit the Cost Proposal component of the proposal in a sealed and labeled envelope separate from the Technical Proposal component. The purpose is to allow the cost component to be evaluated separately from the technical component.
  - 1.5.1 The cost proposals shall not be opened until after the evaluation of the technical component is completed. After the technical proposal evaluation is completed, the cost proposals shall be opened and evaluated, and the scores of both components shall be combined to arrive at a total evaluation score provided, however, that the cost proposal shall not be opened if the associated technical proposal has been deemed non-responsive and is rejected by NWTHRA.
  - 1.5.2 Any proposal which fails to adequately separate the cost proposal components from the technical proposal shall be considered non-responsive and rejected by NWTHRA.

- 1.6 Proposal evaluations shall be conducted by Nwthra employees in such a manner as to reasonably ensure that all proposals are impartially considered and the policy requirements are adequately met.
- 1.6.1 Proposals shall be evaluated on the basis of factors pertinent to the service sought and detailed in the RFP document. At least three (3) individuals shall be included on the evaluation team.
- 1.6.2 Neither the technical proposal nor the cost shall be the only criterion for a contract award recommendation. However, specific factors may be set forth as a criterion for determining which proposals shall be considered responsive to the RFP.
- 1.7 Nwthra shall communicate and clarify in the best interests of Nwthra, provided that all communication is in a manner so as not to disclose any information that would give one or more proposers unfair advantage or unfairly enable one or more proposers to improve their proposal.
- 1.8 Nwthra shall have the right, at its sole discretion, to amend an RFP in writing at any time.
- 1.9 Nwthra shall have the right, at its sole discretion, to reject any and all proposals.
- 1.9.1 Any proposal that does not meet the requirements of an RFP may be considered to be nonresponsive, and the proposal may be rejected.
- 1.9.2 Any proposal that restricts the rights of Nwthra or otherwise qualifies the proposal may be considered to be nonresponsive, and the proposal shall be rejected.
- 1.9.3 Whenever Nwthra proposes to reject all proposals for a certain purchase, such action shall be taken only for the following reasons:
- 1.9.3.1 unreasonably high prices or failure of all proposals to meet technical specifications;
- 1.9.3.2 error in the request for proposals;
- 1.9.3.3 cessation of need;
- 1.9.3.4 unavailability of funds; and
- 1.9.3.5 a determination by Nwthra that proceeding with the procurement would be detrimental to the best interests of Nwthra, the reason for which must be documented.
- 1.9.4 Nwthra shall have the right, at its sole discretion, to cancel an RFP in its entirety and, at its sole discretion, to reissue or not reissue an RFP. The approval of the Executive Director shall be required prior to the cancellation of an RFP, and Nwthra shall make a record of such approved request.
- 1.10** Nwthra explicitly permits access to grant records by FTA, Inspectors General, the Comptroller General of the United States, TDOT, and any of their authorized representatives. This right also includes timely and reasonable access to the organization's personnel for the purpose of interview and discussion related to such documents.

# **CERTIFICATION RELATED ITEMS (CMRA) REPORT**



STATE OF TENNESSEE  
**PROCUREMENT COMMISSION**  
3rd Floor, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243-1102  
(615) 741-1035 Fax (615) 741-0684

**ADDENDUM**

**February 2021**

1. Item No. 763.A169  
Service: SWC 917 Grease Trap Service  
Agency/Location: Department of General Services, Central Procurement Office, 312 Rosa L. Parks Ave, Nashville, Tennessee.  
Annual Price: Current Spend \$83,716.42 (October 2020 – February 2021)  
No price increase requested. The amendment to this contract was requested to add a new line item for an Emergency Fee charge of \$290.00, defined as requested service to be completed within 24-48 hours. This change will not affect the maximum liability of this contract.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 3/1/2021 and run until the end of the contract term on 9/30/2021.
  
2. Item No. 763.A196  
Service: TDOC Uniforms  
Agency/Location: Tennessee Department of Correction, Nashville, Tennessee.  
Annual Price: Maximum Liability of 1,800,000.00. Price will vary based on which item or items are purchased from the contract.  
No price increase requested. The amendment to this contract was requested to discontinue an item and will not affect the maximum liability of this contract.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 3/1/2021 and run until the end of the contract term on 9/30/2021.

3. Item No. 763.A198  
Service: TDOC Boots  
Agency/Location: Tennessee Department of Correction, Nashville, Tennessee.  
Annual Price: Maximum Liability of \$350,000.00 Price will vary based on which item or items are purchased from the contract.  
No price increase requested. The amendment to this contract was requested to discontinue certain line items, update some product descriptions, and add a line item for a shipping fee charge for returning non-defective footwear of \$15.90. These changes will not affect the maximum liability of this contract.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 3/1/2021 and run until the end of the contract term on 12/31/2021.
  
4. Item No. 763.A130  
Service: SWC 920 Drug Testing Kits  
Agency/Location: Department of General Services, Central Procurement Office, 312 Rosa L. Parks Ave, Nashville, Tennessee.  
Annual Price: Current Spend \$320,669.20 (October 1, 2020 – February 2021)  
Price increase requested. The amendment to this contract was requested for a price increase on laboratory confirmations, this will be an additional \$1.20 per confirmation for a total charge of \$21.50. There is also a line item addition for affidavits for a charge of \$26.50 each. These changes will not affect the maximum liability of this contract.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 3/1/2021 and run until the end of the contract term on 9/30/2021.

## **RE-CERTIFICATION**

### **March 2021**

1. Item No. 763.21  
Service: Ground Maintenance Services  
Agency/Location: Tennessee Department of Mental Health, Cloverbottom Development Center, 275 Stewards Ferry Pike, Nashville, Tennessee  
Annual Price: \$206,718.30, Scheduled Services \$173,242.80 annually, or \$4,812.30 per cycle for 36 cycles, or \$34.37 per acre per cycle. Non-Scheduled Services: \$ 33,475.50 annually for 30 cycles or 2,904 hours at \$11.53 per hour.  
No price increase requested.  
Satisfaction: No complaints have been filed.  
Re-Certification Requested for Period of 04/01/2021 – 03/31/2022.
  
2. Item No. 763.A162  
Service: Janitorial Services  
Agency/Location: Tennessee Department of Environment & Conservation, Bledsoe Creek State Park, 400 Zieglers Fort Road, Gallatin, Tennessee  
Annual Price: \$20,612.76, March through November: \$17,044.88 annually, or \$1,893.87 per month, or \$12.31 per hour. December through February: \$ 3,567.88 annually or \$1,189.29 monthly or \$13.07 per hour.  
No price increase requested.  
Satisfaction: No complaints have been filed.  
Re-Certification Requested for Period of 04/01/2021 – 03/31/2022.
  
3. Item No. 763.A181  
Service: Janitorial and Grounds Maintenance Services  
Agency/Location: Tennessee Department of Environment & Conservation, Long Hunter State Park, 2910 Hobson Pike, Hermitage, Tennessee  
Annual Price: \$53,558.42, Janitorial Services: \$40,518.72 annually, or \$3,376.56 monthly, Ground Maintenance Services (Park Areas): \$10,791.75 annually, or \$719.45 per cycle, Ground Maintenance Services (Fields): \$2,247.95 annually, or \$449.59 per cycle for 5 cycles per year.  
No price increase requested.  
Satisfaction: No complaints have been filed.  
Re-Certification Requested for Period of 04/01/2021 – 03/31/2022.

## **ADDENDUM**

4. Item No. 763.A66  
Service: Janitorial Services, Day Porter/Custodial Services  
Agency/Location: Tennessee Department of Transportation, TDOT Region 4 Headquarters, 300 Benchmark Place, Jackson, Tennessee  
Annual Price: \$167,629.97, Janitorial Services: \$148,842.43, or \$12,403.54 per month or \$2.098 per square foot for a total of 70,916 square feet. Day Porter Services: \$18,787.54 annually, \$1,565.63 monthly, \$9.03 per hour for an annual total of 2080 hours.  
The amendment to this contract was requested to combine contract 68259 and 65795 to consolidate services for the same location with the same sub-contractor. Along with combining the two services there was a price increase request to increase the cost due to increase in cost of cleaning supplies due to COVID-19 and labor costs. This is also the first cost increase sought since 2013.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 4/1/2021 and run until the end of the contract term on 9/30/2021.
  
5. Item No. 763.A198  
Service: TDOC Boots  
Agency/Location: Tennessee Department of Correction, Nashville, Tennessee.  
Annual Price: Maximum Liability of \$350,000.00 Price will vary based on which item or items are purchased from the contract. Current Spend \$105,135.55 (January 1, 2021 – March 2021).  
No price increase requested. The amendment to this contract was requested to discontinue two line items and add some items that will be substitute boots when certain styles or sizes are unavailable. These changes will not affect the maximum liability of this contract.  
Satisfaction: No complaints have been filed.  
Addendum will have an effective date of 4/1/2021 and run until the end of the contract term on 12/31/2021.

## **CERTIFICATION**

6. Item No. 763.A205  
Service: Janitorial Services  
Agency/Location: Tennessee Department of Transportation, TDOT Region 3 Complex, 6601 Centennial Blvd., Nashville, Tennessee  
Annual Price: \$216,636.00, or \$18,053.00 per month or \$2.02 per square foot for a total of 107,412 square feet.  
This certification provides a new subcontractor, which will be TriStar Building Services, for this location. This change in business partners bring a price difference but is still in line with market pricing.  
Certification Requested for Period of 04/01/2021 – 03/31/2022.



## **DE-CERTIFICATION**

7. Item No. 763.54

Service: Janitorial Services

Agency/Location: Tennessee Department of Transportation, TDOT Region 3 Complex, 6601 Centennial Blvd., Nashville, Tennessee

Annual Price: \$ 200,701.32, or \$16,725.11 per month or \$1.86852 per square foot for a total of 107,412 square feet.

No price increase requested.

Satisfaction: This decertification was requested due to Certified Maintenance Service requesting to seek decertification for Contract #66340 citing difficulties keeping employees in the Nashville area because of COVID. CMRA will certify this location with a new business partner.

De-Certification Requested for 4/1/2021

# **LIMITATION OF LIABILITIES REPORT**

Number	Form	Subject	Description	Status	Priority	Due Date	Owner
4661	LOL_REQ	LOL-34360-42421 Infor Contract	Contractor will be providing the Tennessee Department of Health with on-going support and maintenance services on several computer systems at a cost of \$798,413 over a sixty (60) month period. During negotiations, the State agreed to the Contractor's request that the LOL provision be changed to 2xs the Maximum Liability in the Contract. This support and continued maintenance during the term of the Contract is necessary to properly maintain the computer systems. This modification in the Contract poses no risk to the State, conforms with Tenn. Code Ann. § 12-3-701, and is in the best interest of the State.	A	1	3/25/2021	terri0414001
4521	LOL_REQ	31602 On-going licensing & support	Contractor will be providing the Tennessee Commission on Aging and Disability with computer software services, including necessary licenses and on-going support services at a cost of \$37,735 over a twenty-four (24) month period. These software services are necessary in order for the agency to properly evaluate and structure data in compliance with the Older Americans Act. Contractor requested the LOL provision be changed to eliminate liquidated damages, since these types of damages were not contained in the Contract. The modification to the contract poses no appreciable risk to the State, it is in the best interest of the State, and complies with Tenn. Coda Ann. § 12-3-701.	A	3	3/9/2021	janeb0302001
4399	LOL_REQ	34513-00122 Child Support Enforcement Services-Voluntary Paternity	Still Pending Revisions from Agency	H	3		REBE0613001

Date/Time	Last Upd DtTm	BU	Agency Tracking	Edison Contract or Note
3/25/2021 13:19	3/25/2021 13:42	34301	34360-42421	
3/9/2021 15:13	3/9/2021 15:14	31602	31602-21033	4482
2/25/2021 14:52	3/1/2021 15:57	34501	34513--00122A	TBD

**MEMORANDUM OF UNDERSTANDING  
(MOU) REPORT**

	A	B	C	D	E	F	G	H
1								
2	<b>Number</b>	<b>SWC# / Edison Contract #</b>	<b>Contract Name</b>	<b>Category Specialist / Sourcing Analyst</b>	<b>Vendor Name</b>	<b>Description</b>	<b>MOU Active Date</b>	<b>Items Added via MOU</b>
319	317	66349	COVID ACS Healthcare Staffing	Joyanna Brassfield	Cross Country Staffing Inc.	COVID Healthcare Staffing Services	2/11/2021	Advanced EMT, Paramedic, Critical Care Paramedic
320	318	NV56781	Franklin Covey Training & Consulting Services	Eve Whittenburg	Franklin Covey Client Sales Inc	MP4 files for DOHR training	2/16/2021	Video Files
321	319	66209	Generator Maintenance	Sharon Pope	Advanced Professional Generator	Generator Mainenance	3/1/2021	Annual Generator Maintenance & Load Bank testing
322	320	37896	Managed Service Provider (MSP)	Laitin Beecham	Knowledge Services	Temporary and Contract Staff Augmentation	2/19/2021	Executive Consultant
323	321	65345	Cellular Devices, services, and Business solutions	Richard Kotler	Verizon Wireless	Capability to have a mini call center for Judicial services -800 number and up to 8 phones on calls	2/22/2021	"One Talk" Service Plan
324	322	57481	Interior & Exterior Signage	Eve Whittenburg & Maya Cacavas	Jarvis Award Sign & Flag	Interior and Exterior Signage and services	3/5/2021	Additional signs and installation services
325	323	53203	NetTN	Sharon Pope	AT&T Corp	NetTN Services	4/16/2021	Addition of SMS/Texting Lines