

<i>VENDOR SELECTION - NEGOTIATED PROCUREMENTS</i>	PROCEDURE	
	Document Number:	BS-PR-034
	Version Number:	02

1.0 Purpose:

To implement the provisions of VTA Policy BS-PL-034, Negotiated Procurements (“NP”).

2.0 Scope:

This procedure (“Procedure”) applies to all VTA departments and all vendors participating in the established VTA procurement process.

3.0 Responsibilities:

It is the responsibility of the Manager of Procurement, Contracts and Materials (MPCM) to assure organizational understanding and compliance with Policy BS-PL-034. Additionally, the MPCM will have responsibility for periodic review and proposing updates to the Policy.

4.0 Policy:

The NP solicitation process will be employed under the circumstances outlined in Policy BS-PL-034 Section 4.0 for procurements valued greater than \$500,000.

PROCEDURE:

4.1 EARLY INVOLVEMENT: Procurement, Contracts and Materials Management (PCMM) staff is to be involved at an early stage of such procurements to provide guidance and direction on the process in developing a Source Selection Plan, which includes establishing a tentative procurement timeline. The overall procurement timeline shall include the date and time of the pre-proposal conference and the date, time, and location for submitting proposals. Finance and Budget staff is to be involved early in the process to ensure that funding sources have been identified and that budget appropriation is available or will be available at the time of contract award.

4.2 BOARD APPROVAL REQUIRED: Note that the Public Contract Code requires that the VTA Board of Directors approve the use of the NP process. (See Sec. 4.3 of BS-PL-034).

4.3 REQUISITION REQUIRED: A complete and acceptable requisition (e.g., Scope of Work, Funding Source(s), Potential Vendors, Evaluation Criteria and Weights, etc.) must be received by PCMM staff before the procurement process is to begin. When the requisition is received, PCMM staff will review all documents to determine the funding source(s) and to assure that the specifications are clear, complete, and non-restrictive.

4.3.1 Any incomplete documents or restrictive specifications will be discussed with the Project Manager (“PM”) and must be corrected and approved by PCMM staff prior to the solicitation process moving forward.

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- 4.4 **EVALUATION CRITERIA:** The evaluation criteria may include the following factors in addition to price (by way of example and not of limitation): fitness of purpose, manufacturer's warranty, vendor financing, performance reliability, standardization, life cycle costs, delivery time table, support logistics and other similar factors, in addition to price.

When the requirements of the solicitation are clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in vendor selection (i.e., Price Determinative). When the requirements of the solicitation are less definitive, or there is more design or development work required, or there is greater performance risk, or technical or past performance considerations play a larger role in vendor selection, then cost or price may play a less dominant role (i.e., Qualitative Base).

- 4.4.1 The established evaluation criteria and their corresponding relative importance must be specified in the solicitation documents, however numerical, percentage ratings, or weights need not be disclosed. The evaluation criteria will be listed in the solicitation documents in their order of importance.
- 4.4.2 The Contract Administrator and the PM shall jointly develop evaluation forms for each specific area to be evaluated, in sufficient detail, to assure accurate and complete evaluation of each area.
- 4.4.3 In all required evaluation areas, the evaluation criteria must be in sufficient detail to allow the Selection Team to determine which vendors are deemed to be acceptable versus non-acceptable.
- 4.5 **KICK OFF MEETING:** If a pre-proposal conference is needed, set forth below are the roles and responsibilities of each person/group.

PCMM Staff Responsibilities: PCMM staff shall meet with the PM to determine the following:

- 4.5.1 The required staff attendees for the pre-proposal conference;
- 4.5.2 The advertising to be used and department/project advertisement budget availability;
- 4.5.3 The need to obtain Board approval for execution of the final contract;
- 4.5.4 If federally-funded, the required federal clauses;
- 4.5.5 Assure that the PM understands that the Office of Small and Disadvantaged Business (OSDB) must approve all DBE and or SBE goals for the solicitation;

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- 4.5.6 Determine, with General Counsel assistance, what type of contract document (e.g., exemplar) will be utilized;
- 4.5.7 Determine Bonding and Insurance requirements;
- 4.5.8 Determine the need for Liquidated Damages; and
- 4.5.9 Determine the dates of interviews to be included in the NP document;

Project Manager Responsibilities:

- 4.5.10 Develop, with the assistance of the Contract Administrator, the evaluation criteria to be used in the NP process.

Contract Administrator Responsibilities:

- 4.5.11 Assure that the evaluation criteria are clear; non-restrictive; allow for fair competition; and are related to the specifications of the solicitation;
- 4.5.12 Contact the proposed Selection Team members and confirm their participation;
- 4.5.13 Arrange all meeting places for the pre-proposal meeting and for the subsequent evaluation meetings;
- 4.5.14 Notify all Selection Team members of the dates, times, and locations of necessary meetings; and
- 4.5.15 Assure that none of the Selection Team members have any conflicts of interest in the solicitation. Every member of the Selection Team will be required to sign a Confidentiality Agreement and Conflict of Interest Disclosure form. The Contract Administrator shall collect both of these forms from every member of the Selection Team before the individual participate as a Selection Team member.

4.6 **THE SELECTION TEAM:**

- 4.6.1 The Selection Team shall consist of VTA staff (recommended by the Project Manager and approved by the Contract Administrator) who can evaluate the proposals received and make an informed decision and recommendation. If there is a demonstrated need for non-VTA staff to be on the Selection Team, the Project Manager and Contract Administrator will agree who those team members shall be;
- 4.6.2 No consultants may be voting members of the Selection Team.
- 4.6.3 The Selection Team should be kept to a workable size, depending on the complexity of the product to be purchased and as part of the governance structure will have a Chair.
- 4.6.4 The Selection Team will determine which proposers will be invited for interviews and, if the Best and Final Offers (BAFOs) stage is utilized, which proposers shall submit BAFOs.

4.7 **TECHNICAL ADVISORY TEAM (TAT):**

- 4.7.1 If appropriate and/or if the Selection Team determines that it is necessary, the TAT should be formed. The TAT's role is to evaluate the various aspects of the

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- proposals, such as technical or management components and others areas, as determined necessary by the Contract Administrator and the PM;
- 4.7.2 Shall consist of VTA staff (recommended by the Project Manager and approved by the Contract Administrator); and
- 4.7.3 Will report analysis to the Selection Team.
- 4.7.4 The TAT will not have voting rights and role is to serve as a Technical or Subject Matter expert and provide analysis and recommendation to the Selection Team.
- 4.8 ADVERTISING: When the above steps have been completed, the Contract Administrator will prepare the solicitation for advertisement in a newspaper of general circulation, the VTA website, and any/or other advertising media agreed upon with the PM.
- 4.8.1 PCMM staff will be responsible for:
- 4.8.1.1 Preparing the solicitation document which will include evaluation process;
- 4.8.1.2 Assuring the NP document contains the scope of work, the evaluation criteria and their relative importance, and any necessary federal clauses, among other required elements;
- 4.8.1.3 Assuring that documentation for the decision regarding the chosen solicitation method used is in the file;
- 4.8.1.4 Placing all necessary advertisements;
- 4.8.1.5 Receiving notices of publication;
- 4.8.1.6 Uploading the needed information to the VTA website;
- 4.8.1.7 Arranging for the meeting room for the pre-proposal conference; and
- 4.8.1.8 Making arrangements for any needed site visits.
- 4.9 PRE-PROPOSAL CONFERENCE: Should a pre-proposal conference be needed, PCMM staff will have the following responsibilities:
- 4.9.1 Facilitate the pre-proposal conference;
- 4.9.2 Fully outline the procurement process that will be followed;
- 4.9.3 Assure that proposer questions are sufficiently answered;
- 4.9.4 Remind prospective proposers that all communications with VTA throughout the procurement process will be with PCMM staff only, unless indicated otherwise in this Procedure;
- 4.9.5 Notify attendees that they must register as an interested vendor for the specific NP to ensure receipt of any addenda that may be issued;
- 4.9.6 Assure that relevant VTA staff is in attendance. This includes staff from the requesting department, staff from the OSDB, and any others that may be needed to respond to questions from prospective proposers;
- 4.9.7 OSDB staff will outline the DBE or SBE goals for the project and provide all related DBE/SBE information to the attendees;

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4.9.8 Accurately document (i) questions asked and their corresponding answers, and (ii) questions that will be responded to in writing at a later date;

4.9.9 Assure that all attendees have signed in;

4.9.10 Coordinate with the PM and General Counsel's Office, if necessary, to develop written responses to questions raised at the pre-proposal conference; and

4.9.11 Provide written responses to all plan holders of record to questions raised at the pre-bid conference.

- 4.10 COMMUNICATION WITH VENDORS: PCMM staff will be solely responsible for all communications with the vendors throughout the procurement process. Any VTA staff member that is contacted by a bidder or a prospective bidder must (i) inform that vendor that such contact is inappropriate, and (ii) shall refer that person to the PCMM staff member that is responsible for the procurement.

Additionally, PCMM staff should be notified of the contact. The only exception to this requirement is that prospective proposers may contact OSDB to discuss related procedures and requirements.

- 4.11 ADDENDA: Any necessary addenda to the procurement document must be prepared and issued by the responsible PCMM staff person. The issuance of such addenda will be done with the involvement and concurrence of the PM. Such addenda will be sent to all plan holders of record.

- 4.12 PLAN HOLDERS OF RECORD: The plan holders of record are those vendors who have registered on the VTA website for the specific NP in question. Vendors who submit bids without registering do so at the risk of not receiving addenda and potentially having their proposal rejected.

- 4.13 PROPOSAL OPENING RESPONSIBILITIES: PCMM staff will have the following responsibilities:

4.13.1 Receive all proposals submitted in a timely manner;

4.13.2 Consult with General Counsel's Office to determine the proper handling of "late" submissions; and

4.13.3 Assure all proposals received are complete and responsive.

- 4.14 POST-PROPOSAL OPENING RESPONSIBILITIES: After the proposals are received, PCMM staff will have the following responsibilities:

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- 4.14.1 Distribute proposals to the members of the Selection Team members who have submitted both the Confidentiality Agreement and the Conflict of Interest Disclosure forms;
 - 4.14.2 The OSDB must approve all DBE/SBE goal attainment and conduct any Good Faith Efforts review that may be necessary;
 - 4.14.3 Schedule and facilitate the meetings of the Selection Team;
 - 4.14.4 Assure that the evaluation of the Technical, Management, and Price proposals meet the published evaluation criteria and are in the competitive range;
 - 4.14.5 Assure that those proposers who are in the competitive range and are invited to participate in interviews meet the published evaluation criteria;
 - 4.14.6 Assure that adequate meeting rooms have been reserved for the number of interviews determined by the Selection Team;
 - 4.14.7 When a decision on which firms are to be invited for interviews is made by the Selection Team, the Contract Administrator will assure that invitations are sent and will confirm the attendance of all invited proposers as to time, place, and duration;
 - 4.14.8 If any proposal is determined to be "Unacceptable," notify that firm of that determination and indicate that it will no longer be considered in the selection process;
 - 4.14.9 Schedule a meeting of the Selection Team, if needed, to determine areas of concern and plan the important aspects of the discussion with the vendor;
Facilitate the interviews with the proposers and assure that appropriately detailed notes of the discussions are taken;
 - 4.14.10 Convene necessary meetings of the Selection Teams and the Technical Advisory Team (if applicable) to review and evaluate information received during the interviews;
 - 4.14.11 Determine if the NP requirements require any changes based on information received during the interviews; and
 - 4.14.12 If an addendum to the NP is necessary, work with the PM and others, as necessary, to draft the addenda and submit it to the remaining proposers with an invitation to submit their Best and Final Offer (BAFO) by a date and time certain.
- 4.15 RECEIPT OF BAFOs: After BAFOs are received, PCMM staff will have the following responsibilities:
- 4.15.1 Distribute BAFOs to the Selection Team;
 - 4.15.2 Schedule a meeting of the Selection Team and the Technical Advisory Team (if applicable) as needed to review the various aspects of the BAFOs;
 - 4.15.3 The Selection Team shall determine which of the BAFOs are fully responsive to the NP and are therefore acceptable;
 - 4.15.4 The Selection Team shall rank the acceptable proposals using the same evaluation criteria as previously developed;

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- 4.15.5 Using the established ranking and the BAFOs, the Selection Team will determine which proposal presents the most advantageous offer to VTA considering fitness of purpose, warranty, vendor financing, performance reliability, standardization, life cycle costs, delivery timetables, support logistics, and other similar factors in addition to price;
- 4.15.6 When the Selection Team determines a recommended award, complete the Solicitation Team Summary;
- 4.15.7 Draft the Notice of Intended Award and send to all plan holders of record
- 4.15.8 Assist the PM with drafting a Board memo, if needed;
- 4.15.9 Create the necessary contract documents for signature when the contract has been approved;
- 4.15.10 Secure the required signatures on the contract documents from the awardee and VTA;
- 4.15.11 Distribute the fully executed contract document to the awardee and to the PM; and
- 4.15.12 Maintain a complete procurement contract file.
- 4.16 **PROTESTS:** Any protests received during the procurement process will be handled according to Policy and Procedure FRS-PL-036 & FRS-PR-036.
- 4.17 **AMENDMENTS:** Any changes to the executed contract must be accomplished by a contract amendment. A contract amendment can be requested by the vendor or VTA. PCMM staff will have the following responsibilities when a contract amendment is contemplated:
- 4.17.1 Work with the PM to develop the scope of the intended contract change;
- 4.17.2 Assure that the proposed amendment is within the scope of the original agreement;
- 4.17.3 Assure that the proposed amendment is not a “cardinal change” to the contract;
- 4.17.4 Assure that the PM has developed a valid Independent Cost Estimate (ICE);
- 4.17.5 Participate, as needed, in the negotiations of such amendments with the vendor;
- 4.17.6 Assure that the PM has completed a Negotiation Summary, which documents the negotiations that took place to resolve differences in price or scope between the ICE and the vendor’s proposal;
- 4.17.7 Draft or approve the amendment;
- 4.17.8 Secure appropriate approval signatures from the vendor and VTA; and
- 4.17.9 Assure that the vendor and the PM receive fully executed amendments.
- 4.18 **CONTRACT CLOSEOUT:** PCMM staff will assure that all contract closeout requirements are met.

5.0 Definitions:

Contract: A contract can be:

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- 5.1 A formal contract document that contains all of the terms, conditions and specifications of the agreement.
- 5.2 A standard VTA Purchase Order.
- 5.3 A Construction Agreement.

PCMM Staff

Member: Used interchangeably with Contract Administrator or Buyer.

Project Manager: The person who submitted the requisition for the product or service and is (or will be) the responsible party for the contract once executed.

Cardinal Change: A Cardinal Change is a change that is not within the general scope of the original contract or of such a large dollar value that a new procurement would be justified.

Amendment: A formal document signed by both parties to the original contract that modifies the terms, conditions, or specifications of the original contract. In the case of construction contracts, can be referred to as a Change Order or a Construction Change Order.

6.0 *Records:*

Records of protests shall be maintained within the Procurement, Contracts and Materials Management Department according to established record retention guidelines.

7.0 *Appendices:*

N/A.

8.0 *Training Requirements:*

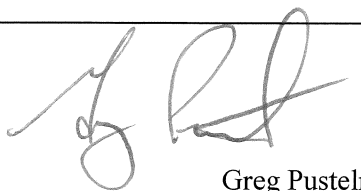

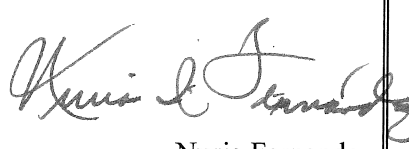
Procurement, Contracts and Materials Management will have responsibility for training VTA staff on compliance with the Procedures outlined in this Policy.

9.0 *Summary of Changes:*

Change in procedure. This change is to (i) eliminate the previous separate efforts of a Selection Team and an Evaluation team and, instead, combine them such that one team [Selection Team] evaluates the proposers from beginning to end, and (ii) set forth current procedures in a clearer manner. This procedure, BS-PR-034, replaces FRS-PR-034.

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10.0 Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Greg Pustelnik Procurement, Contracts, and Materials Manager	 Alberto Lara Director of Business Services	 Nuria Fernandez General Manager/CEO

11. 9.15
Date Signed