

ORDINANCE SBD #12-86

WHEREAS, Section 4.06 of the Regional Transportation Authority (RTA) Act establishes regulations governing public bidding for the RTA and its Service Boards (CTA, Metra, Pace); and

WHEREAS, Pace has a need for procurement rules and regulations based on the RTA Act and the Federal Transit Administration's (FTA) Circular 4220.1F (as amended) for federally funded procurements.

BE IT ORDAINED:

1. The Board of Directors of Pace hereby adopts the attached Regulations Governing Public Bidding and that said Regulations shall be effective September 1, 2012.
2. The Executive Director of Pace is hereby authorized to execute, implement, administer and enforce said Regulations.
3. Detailed procurement policies and internal operating procedures shall be developed and implemented to enforce the principles contained in said Regulations.
4. ORDINANCE SBD #05-49 adopting the previous Regulations Governing Public Bidding is hereby superseded.

Adopted by the Board of Directors of Pace, the Suburban Bus Division, this 8th day of August, 2012.

VOTING AYE:
DIRECTORS:

VOTING NAY:
DIRECTORS:

ABSENT:
DIRECTORS:

(Seal)

Attest:

PACE, SUBURBAN BUS DIVISION OF
THE REGIONAL TRANSPORTATION AUTHORITY
REGULATIONS
GOVERNING PUBLIC BIDDING

I. PURPOSE

- 1.01 These regulations have been adopted for the purpose of ensuring full and fair competitive bidding in procurements and contracts.
- 1.02 These regulations have been adopted to ensure compliance with Section 4.06 of the RTA Act.
- 1.03 These regulations have also been adopted for the purposes of ensuring that all federally funded procurements adhere to the requirements set forth in the Federal Transit Administration's Circular 4220.1F (as amended), Third Party Contracting Guidance or most recent version and the Federal Transit Administration's Master Agreement (as amended).

II. DEFINITIONS

2.01 Definitions. As used in these Regulations:

- a. "Act" means the Regional Transportation Authority Act.
- b. "Metropolitan Region" means all territory included within the territory of Regional Transportation Authority ("RTA") as provided in the Act, and such territory as may be annexed to the RTA.
- c. "Pace" means the Suburban Bus Division of the Regional Transportation Authority.
- d. "Board" means the Board of Directors of Pace.
- e. "Professional Services" means technical or unique functions performed by independent contractors or consultants whose occupation is the rendering of such services.
- f. "Public Transportation Facilities" means all equipment or property, real or personal, or rights therein, useful or necessary for providing, maintaining, or administering public

transportation within the metropolitan region or otherwise useful for carrying out or meeting the purposes or powers of Pace, except roads, streets, highways, or bridges or toll highways or toll bridges for general public use.

- g. "Reverse Auction" means a type of auction in which sellers bid for the prices at which they are willing to sell their goods and services.
- h. "Transportation Agency" means any, body politic, municipal corporation, public authority, unit of local government, other than Pace, which provides public transportation, any local mass transit district created pursuant to the "Local Mass Transit District Act", as now or hereafter amended, and any urban transportation district created pursuant to the "Urban Transportation Act", as now or hereafter amended, which districts are located in whole or in part within the metropolitan region.

III. COMPETITIVE BIDDING

- 3.01 Purchases of Equipment, Construction Related Services, and General Services. Except as otherwise provided in these Regulations, all contracts or purchase orders for the acquisition of equipment (including Rolling Stock), supplies, construction or related services, or general services (not professional services as detailed below), involving a cost of more than \$10,000.00 shall be let by free and open bidding, after public notice, and awarded to the lowest responsive and responsible bidder via the Invitation for Bid (IFB) process unless exempted by Board ordinance.
- 3.02 Purchases of Professional Services. Except as otherwise provided in these Regulations, all contracts or purchase orders for the acquisition of professional services, other than Architectural and Engineering Services directly leading to construction, alteration, or repair of real property, involving a cost of more than \$10,000.00 shall be let by competitive proposals or the Request for Proposal (RFP) process, after public notice, and awarded to the highest rated, responsive and responsible proposer.
- 3.03 Purchases of Architectural and Engineering or related services that directly lead to the construction, alteration, or repair of real property. All contracts or purchase orders for the

acquisition of Architectural and Engineering and related services that directly lead to the construction, alteration, or repair of real property shall adhere to qualifications based procedures or the Letters of Interest and Qualifications (LIQ) process and award will be made to the highest technically rated vendor who offers a fair and reasonable price as determined by Pace. All federally funded procurements of this type with a value exceeding \$3,000 shall adhere to the Federal Brooks Act requirements as well as state laws pertaining to the acquisition of Architectural and Engineering services that lead directly to the construction, alteration, or repair of real property.

3.04 Sales. Except as otherwise provided in these Regulations, or allowed by federal regulations, all contracts for the disposition of any property of Pace, unless as determined by Pace to be scrap value, shall be let by free and open bidding to the highest responsive and responsible bidder.

All contracts for the disposition of any Pace property that requires proper disposal or removal services, shall be let by free and open bidding to the lowest responsive and responsible bidder.

3.05 Exceptions. The competitive bidding requirements of these regulations do not apply to the following:

- a. the immediate delivery of supplies, material, or equipment or performance of services, directly related to the provision of public transportation services by Pace; when the safety of Pace, its employees, riders, or the general public is jeopardized; in the case of public exigency; and where the Executive Director of Pace has made a written determination that an emergency requires immediate delivery or supply thereof, and that this written determination be presented to the Board within five working days
- b. goods or services that are economically procurable from only one source or justifiably limited to a brand name product(s)
- c. contracts for maintenance or servicing of equipment which are made with the manufacturers or authorized service agent of that equipment where the maintenance or

servicing can only be economically performed by the manufacturer or authorized service agent

- d. contracts for maintenance or servicing of proprietary hardware or software which are made with the manufacturers or authorized service agent of that proprietary hardware or software where the maintenance or servicing can only be economically performed by the manufacturer or authorized service agent of that proprietary hardware or software
- e. goods or services procured from a governmental agency where federal funds are not utilized or where state law or regulations does not prohibit the same
- f. purchase of real estate
- g. a contract awarded utilizing a schedule type joint procurement program run by another governmental entity (e.g. the State of Illinois Joint Purchasing Program or Western States Contracting Alliance Program) or a schedule type cooperative purchasing agreement run by another governmental entity (e.g., the General Services Administration Cooperative Purchasing Program), where the other governmental entity has utilized a competitive bidding process in the original procurement
- h. a joint procurement in which Pace may plan procurements in advance with one or more other governmental entities, in which another governmental entity serves as the lead agency, and competitively awards contracts in which several governmental entities may draw upon to meet their needs
- i. the acquisition of utility services
- j. the acquisition of public transportation equipment including, but not limited to, buses and rolling stock, provided that: (i) it is determined by a vote of 2/3 of the then Directors of the Board that a negotiated acquisition process offers opportunities with respect to the cost of financing of the equipment, its delivery, or other allowable advantageous situations; (ii) a notice of intention to issue a competitive proposal (RFP) for the acquisition of such public transportation equipment is published in a newspaper of general circulation within the City of Chicago or the Metropolitan Region inviting proposals from qualified vendors; and (iii) any contract with respect to such acquisition is authorized by a vote of 2/3 of the then Directors of the Pace Board.

- k. purchase of service agreements with any Transportation Agency
- l. purchases, sales, or other contracts or agreements entered into by Pace with any unit of local government
- m. intergovernmental agreements with other units of government for the purpose of providing, facilitating or supporting public transportation and related support services
- n. assignment of contract authority in which an assignability clause is contained in another governmental entities contract that provides for the assignment of all or a portion of the specified deliverables, or its unneeded contract authority, as originally advertised, competed, evaluated, and awarded by the other governmental entity

IV. PROCUREMENTS

4.01 Public Notice. All bids or proposals to award purchase orders or contracts subject to these Regulations shall be published at least once in a newspaper of general circulation in the Metropolitan Region at least ten (10) calendar days, excluding Saturdays, Sundays, and legal holidays, in advance of the date announced for the receiving and opening of bids and shall simultaneously be posted at the principal office of Pace.

4.02 Content of Public Notice. Advertisements for bids shall describe the character of the proposed contract or agreement in sufficient detail to enable the bidders to know what their obligations will be, either in the advertisement itself, or by reference to detailed plans and specifications available on Pace's website or on file at the time of the publication of the first announcement.

Such advertisement shall also state the date, time, and place assigned for the opening of bids or proposal due date, and no bids shall be received subsequent to the date and time indicated in the announcement. An extension of date and time may be granted for the opening of such bids upon publication in a newspaper of general circulation in the Metropolitan Region of the date to which the bid opening has been extended. The time of the bid opening extension shall not be less than five (5) days after the publication thereof, Saturdays, Sundays, and legal holidays excluded.

- 4.03 Additional Notice. Nothing in these Regulations shall be construed to prevent Pace from providing additional notice for the solicitation of bids.
- 4.04 Collusion. Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void. Each bidder shall accompany his bid with a sworn statement, or otherwise swear or affirm, that he has not been a party to any such agreement. Any disclosure made or permitted by Pace in advance of the opening of bids, of the terms of the bids submitted in response to an advertisement, shall render the proceedings void and shall require re-advertisement. If two or more identical bids are received under these Regulations, Pace shall inform the Attorney General of the State of Illinois of such fact in writing within thirty (30) days following the disposition of all bids received in response to the advertisement for bids, whether by awarding of a contract or other action.
- 4.06 Opening of Bids. All bids that are procured utilizing the competitive bid or IFB process shall be publically opened and read aloud. There shall be a minimum of two staff, representing Pace, present at such bid opening with one reading bids aloud and one visually confirming the bids and serving as a witness.
- 4.07 Reverse Auction. Pace may utilize the reverse auction method of procurement when and if it is Pace's best interest to do so.
- 4.08 Records Required. Each bid received under these Regulations shall be entered on a record showing the name of each bidder and indicating the successful bidder. An official copy of each awarded purchase order or contract, together with all attachments, assignments, and written consents thereto, shall be retained by Pace for such period of time after termination of the contract during which an action against Pace might ensue under applicable laws of limitation. Records are subject to the Illinois Freedom of Information Act.
- 4.09 Determining Responsive Bidders. In determining the responsiveness of any bidder, Pace may take into account other factors in addition to specification compliance, such as timely submission of bids, completed compliance or certification documents, DBE goal

compliance, signed and notarized non-collusion affidavit, and other pertinent responsiveness considerations.

4.10 Determining Responsible Bidders. In determining the responsibility of any bidder, Pace may take into account other factors in addition to financial responsibility, such as past records of transactions with the bidder, experience, adequacy of equipment, special or unique certification or skills required in the performance of the contract, ability to complete performance within a specified time limit, whether they are debarred by the federal government or other governmental agency, and other pertinent responsibility considerations.

4.11 Rejection of Bids. Any bid, any part of any bid, or all bids may be rejected by Pace for any reason.

V. CONTRACTS

5.01 Assignment of Contracts. Contracts or purchase orders shall not be assignable or sublet by the successful bidder without prior, written authorization of Pace.

5.02 Authorization and Execution.

- a. Every contract that is issued by Pace that exceeds \$10,000 but does not exceed \$50,000 shall be signed by the Department Manager, Purchasing as designated by the Executive Director of Pace.
- b. Every contract that is issued by Pace that exceeds \$50,000 but does not exceed the Board approval thresholds listed below by procurement type shall be signed by the Executive Director of Pace.
- c. Every contract that is let by the Invitation for Bid Process or through a schedule type joint procurement program (e.g. the State of Illinois Joint Purchasing Program or Western States Contracting Alliance Program) or a cooperative purchasing agreement (e.g., General Services Administration Cooperative Purchasing Program) with another governmental entity valued at more than \$500,000.00 that is subject to these regulations

to which Pace is a party, shall be submitted to and authorized by the Board before being executed by the Executive Director of Pace.

d. Every contract that is let by the Request for Proposal or Letters of Interest and Qualifications process and valued at more than \$250,000 that is subject to these Regulations, shall be submitted to and authorized by the Board before being executed by the Executive Director of Pace.

e. Every contract that is deemed a sole source, except those acquisitions handled following "Emergency Procurement Procedures" as detailed above, and valued at more than \$100,000 that is subject to these Regulations, shall be submitted to and authorized by the Board before being executed by the Executive Director of Pace.

5.03 Conflict of Interest. Members of the Board, officers and employees of Pace, their spouses, their children, their parents, their brothers and sisters and their children, are prohibited from having or acquiring any contract or any direct pecuniary interest in any contract which will be wholly or partially performed by the payment of funds or the transfer of Pace property. Any firm, partnership, association, or corporation from which any member of the Board, officer or employee of Pace is entitled to receive more than seven and one-half percent (7 ½%) of the total distributable income, is prohibited from having or acquiring any contract or direct pecuniary interest in any contract which will be performed in whole or in part by payment of funds or the transfer of Pace property.

Any firm, partnership, association, or corporation from which members of the Board, officers, employees of Pace, their spouses, their children, their parents, their brothers and sisters and their children are entitled to receive in the aggregate more than fifteen percent (15%) of the total distributable income, is prohibited from having or acquiring any contract or direct pecuniary interest in any contract which will be performed in whole or in part by the payment of funds or the transfer of Pace property. Nothing in this section invalidates the provisions of any bond or security offered for sale or sold by or for Pace.

Further, Members of the Board, officers and employees of Pace, their spouses, their children, their parents, their brothers and sisters and their children, shall adhere to all applicable sections of Pace's Ethics Ordinance No. SBD 04-61 as amended.

5.04 Contracts Violating Regulations. Any purchase order or contract executed in violation of these Regulations shall be null and void as to Pace.

5.05 Authorized Procurement Personnel. All procurement actions and contract negotiations that fall under the control of this Procurement Ordinance (those procurements that exceed \$10,000) shall be handled by the Purchasing Department as designated by the Executive Director of Pace. All such procurement actions shall be overseen and handled by authorized procurement personnel only, with the exception of those actions exempted by FI-06, Pace's check request policy, Intergovernmental Agreements authorized by the Legal Department, or actions covered under *PC-02-D, Field Changes*. No other department shall solicit bids/proposals, price quotes, or engage in any other procurement action, including committing to or soliciting verbally or otherwise contracts or change orders to contracts and applicable negotiations (collectively referred to herein as "procurement actions");

VI. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

6.01 DBE Program. It is Pace's policy to give every vendor, including DBEs, equal opportunity to conduct business with Pace. The Pace's DBE Liaison Officer as designated by the Executive Director of Pace shall set annual goals for the portion of Pace contracting that will be awarded to DBEs, and report such goals to the Board.

- a. Pace will review all federally funded procurements in excess of \$10,000 and all other non-federally funded procurements in excess of \$25,000, with the exception of joint procurements/cooperative purchasing agreements, intergovernmental agreements, or sole source procurements, to determine if the contract has subcontracting opportunities. If such subcontracting opportunities exist, Pace will assign a DBE Goal to the procurement. The DBE Goal, if any, will be included in the solicitation documents.

- b. DBE Goals can be satisfied in one of three ways: (1) by committing to meet the DBE Goal directly; (2) by demonstrating good faith efforts to meet the DBE Goal; or (3) by a combination of (1) and (2), above.

- c. Compliance with a DBE Goal is a matter of bidder Responsiveness. In order for a Bid to an IFB or RFP to be Responsive, the Bid must either commit to meeting the DBE Goal, or demonstrate good faith efforts to meet the DBE Goal, or meet the DBE Goal in part and demonstrate good faith efforts to meet the remainder of the DBE Goal.

Adopted by the Board of Directors of Pace, the Suburban Bus Division OF THE RTA, August 8, 2012:

VOTING AYE:
DIRECTORS:

VOTING NAY:
DIRECTORS:

ABSENT:
DIRECTORS:

(Seal)

Attest:

ORDINANCE SBD #12-86

ADOPTED by the Board of Directors of Pace, the Suburban Bus Division of the RTA, August 8, 2012:

DIRECTORS VOTING AYE: 8 Ayes Directors Larson, Marcucci, Mitchell, Schielke, Shepley, Squires, Tamley, Welton

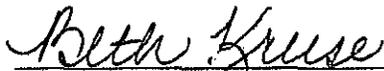
DIRECTORS VOTING NAY: 1 Nay Director Hastings

(Seal)



Richard A. Kwasneski, Chairman

Attest:



Beth Kruse, Board Secretary