**Please place this Procurement Policy on your agency letterhead and have it signed by your human service official authorized to sign your grant agreements. Note that these are minimum requirements necessary to meet Federal and State requirements. Each agency may (and should) include their own procurement rules and requirements.**

**Name of Agency**

**Procurement/Purchasing Policies and Procedures for Small Procurements (Valued up to $25,000) Using Section 5310 Funding**

**Date**

**Procurement Procedures: (Applies to capital purchases paid for with 5310 grant funds as well as preventative maintenance and operating expenses.)**

The procurement officer is responsible for ensuring that prices are fair and reasonable by conducting an Independent Cost Estimate (ICE) as noted below for each purchase and supplying a Rationale for Procurement. The ICE form is the first document required to initiate the procurement process. (Copy of sample ICE form is attached).

The procurement officer is responsible for encouraging the distribution of purchases equitably among local vendors, and ensuring that no geographic preferences are shown in any procurement.

The procurement officer is responsible for conveying to vendors that the purchase will be made with federal and/or state funds and for including all applicable Federal and State clauses and conditions with the procurement.

The procurement officer is responsible for notifying vendors that by fulfilling the purchase request, the vendor will be required to accept and abide by all applicable Federal and State clauses and conditions (copy of Federal clauses and conditions attached).

The procurement officer is responsible for maintaining a full Procurement File of all 5310 procurements by Fiscal Year and procurement. Each Procurement File will be maintained (in written or electronic form) for the life of the capital asset or three years from date of agency acquisition of vendor operating goods or services.

The procurement officer is responsible for ensuring that their procurements do not discriminate against businesses owned by persons of racial or ethnic minorities or women.

The procurement officer is responsible for: getting written MTA concurrence for each and every Federal and State funded procurement over $3,000 (operating) and over $300 (capital) prior to award and purchase of any goods or services; and for getting written MTA concurrence for each and every Federal and State funded procurement over $3,000 (operating) and $300 (capital) prior to advertisement and award and purchase of any goods or services.

The procurement officer is responsible for conducting a fair and equitable cost/price analysis of the selected vendor’s proposal/bid which includes defining and determining the responsible vendor.

The procurement officer is responsible for conducting a System for Award Management (SAM) search prior to award to verify vendors have not been excluded from entering into contracts funded with Federal and /or State funds.

The procurement officer is responsible for developing and maintaining a written protest procedure prior to initiating any procurement (copy attached).

The procurement officer is responsible for developing, securing approval, maintaining and enforcing an Agency Code of Ethics (copy attached) and for reviewing each procurement to ensure there is not a conflict of interest for/between agency staff and vendors.

The procurement officer is responsible for maintaining, in the Procurement File, a copy of any vendor invoice or bill, and the agency payment receipt, contract, agreement or Purchase Order entered into with the vendor as a result of an awarded procurement.

As part of this Procurement Procedure, the procurement officer will ensure the following (Name of Agency) documents are included and attached: Code of Ethics, Protest Procedure, ICE Form, and other agency procurement documents.

As part of this Procurement Procedure, the procurement officer will ensure that the following procurement requirements (based upon value of purchases) are met:

***Category I Micro purchases up to $3,000:***

For purchases using operating grant funds of up to $3,000, oral or written solicitation may be used. Contact your MTA representative prior to initiating your ICE Form. At least three quotes should be received, recorded, and reviewed prior to awarding vendor. Awards are made on judgment of procurement officer. All pertinent information, including copies of your vendor’s SAM search, vendor’s invoices and agency payment are required with request for payment to MTA.

***Category II Small Procurements between $3,001 up to $15,000:***

For purchases using operating grant funds of more than $3,000 but not more than $15,000, oral or written solicitation may be used. Contact your MTA representative prior to initiating your ICE Form. At least three written estimates should be received, recorded, and reviewed prior to awarding vendor. MTA concurrence must be received prior to award. All Federal clauses must be attached to the purchase order/contract document. Awards are made based on lowest cost. All pertinent information, including copies of your vendor’s SAM search, vendor’s invoices and agency payment are required with request for payment to MTA.

***Category III Small Procurements between $15,001 up to $25,000:***

For purchases of more than $15,000, written solicitation must be used and posted on eMaryland Marketplace. Contact your MTA representative prior to initiating your ICE Form. MTA concurrence must be received prior to advertisement and award. At least three written estimates should be received, recorded, and reviewed prior to awarding vendor. All Federal clauses must be attached to the purchase order/contract document. Awards are made based on lowest cost. All pertinent information, including copies of your vendor’s SAM search, vendor’s invoices and agency payment are required with request for payment to MTA.

**Small Procurements Process:**

## The following process is to be utilized for all Small Procurements under $25,000 for operating purchases over $3,000 or capital purchases over $300 (this includes Capitalized Preventative Maintenance):

* Determine value of goods or services to be purchased and if capital or operating in nature. Develop an ICE Form for the purchase;
* Contact your Regional Planner and review the proposed procurement and ICE Form with them;
* Prepare and conduct appropriate solicitation documents and procurement file, include appropriate Federal Terms and conditions with solicitation documents;
* Prior to purchase or award, provide written Cost or Price analysis;
* Secure electronic (email) or written MTA approval to proceed with purchase or contract;
* Make purchase and/or award. Use Purchase Orders or other contract award documents as required below, include Federal Terms and Conditions with purchase documents to vendor;
* Receive goods or services and invoice. Check goods or services to ensure they meet purchase/contract specifications. Pay vendor;
* Submit payment request to MTA for reimbursement with appropriate invoices and payment verification attached.

## Written Contract Elements:

Procurements up to $3,000 do not require a written contract; an oral contract may be used, though a receipt, invoice, or voucher is required documentation.

Procurements exceeding $3,000 require a purchase order or written contract. The Federal and State requirements that pertain to those grants funding the contract with the third party should be clearly spelled out in the contract or your purchase order.

A list of Federally-required contract provisions and when they apply is attached. Also attached is a current copy of the required provisions. FTA-required clauses are detailed in the FTA Master Agreement that is updated by FTA each Federal Fiscal Year for FTA grants awarded that year.

As detailed in COMAR 21.05.07.06, F. Small Procurement Written Contract Content, State requirements for what must be included in any purchase order or other form of contract used for small procurements include:

1. Identification of the contract parties including contractor taxpayer identification number;
2. A statement of the scope of the contract;
3. The actual (if known) or estimated dollar value of the contract;
4. The term of the contract, including completion or delivery date;
5. Name of the procurement officer responsible for the contract; and
6. A clause containing the following: "The Contractor shall comply with the provisions of State Finance and Procurement Article, Title 19, Annotated Code of Maryland."
7. Other contract clauses as appropriate for the particular procurement. COMAR 21.05.07.06, F. Contract Clauses, provides preferred language for selected clauses. As noted above, FTA-required contract provisions must also be included.

With regards to the statement of the scope of the contract (item 2), FTA:

* requires a clear and accurate description of the technical requirements for the material, product, or service to be procured;
* prohibits specifications that unduly restrict competition or use exclusionary or discriminatory specifications.
* allows statements regarding minimum acceptable quality.
* prefers performance specifications, rather than detailed product specifications.
* allows “brand name or equal” descriptions when it otherwise be impractical or uneconomical to write a clear and accurate description.

## Documentation Required for Each Procurement:

Records for small procurements must be maintained until audited or for a period of 3 years after final payment, whichever occurs last. The following documentation is to be maintained for all contracts funded by FTA/MTA funds, regardless of value:

* an independent cost estimate (ICE),
* rationale for the method of procurement, solicitation document (e.g., the formal RFP, IFB, or other form of written solicitation),
* documentation of outreach efforts (advertising of your procurement, to include posting on eMaryland Marketplace for all procurements exceeding $15,000)
* contractor responses/bids/proposals/quotes,
* fair and equitable cost analysis of winning proposal (basis for contract price),
* selection of contract type,
* contractor selection or rejection,
* screen shot of the EPLS search results from [www.sam.gov](http://www.sam.gov), and
* copy of signed and executed final contract.

In addition to the above list, the following documents specific to the category of procurement must be maintained as detailed in COMAR 21.05.07.06, I. Small Procurement Record.

***Category I Micro purchases up to $3,000:***

* For Contracts Resulting from Oral Solicitation:
  + Name and telephone number of person expending funds;
  + Date of contract award;
  + Name and address of contractor;
  + Receipt, invoice, repair order, packing slip, or voucher;
  + Brief description of item procured.
* For Contracts Resulting from Written Solicitation:
  + Name and telephone number of responsible procurement officer;
  + Date of contract award;
  + Name and address of contractor;
  + Purchase order or contract;
  + Invoice and receiving documentation;
  + Brief description of item procured;
  + Copy of written or published solicitation, if used;
  + Copy of bid board or newspaper notice, if used.

***Category II & III Small Procurements between $3,001 up to $25,000:***

* + Name and telephone number of responsible procurement officer;
  + Date of contract award;
  + Name and address of contractor;
  + Purchase order or contract;
  + Invoice and receiving documentation;
  + Description of item procured;
  + Bid or offer documentation including names of all vendors directly solicited, copies of any written bids or offers received, bid or offer amounts, statement signed by the procurement officer detailing basis of award, identification of minority business enterprises and small businesses directly solicited, and, when only one bid or offer is received in response to a solicitation, an explanation for the lack of a greater response;
  + Copy of written solicitation;
  + Copy of eMaryland Marketplace notice, and copy of bid board or newspaper notice, if used;
  + Brief written justification if the procurement was sole source;
  + Copy of certification by the appropriate fiscal authority of fund availability to satisfy the contractual requirement.

**Designated Procurement Officer:**

The designated procurement officer is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For the time period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_