

**ORDINANCE SBD #23-74**

ADOPTED by the Board of Directors of Pace, the Suburban Bus Division of the RTA,  
October 18, 2023.

DIRECTORS 13 Arfa, Canning, Carr, Guerin, Hastings, Marcucci, McLeod, Noak,  
VOTING AYE: Schielke, Smith, Soto, Wells, and Chairman Kwasneski.

DIRECTORS 0  
VOTING NAY:

DIRECTORS 0  
ABSTAINING:

DIRECTORS 0  
ABSENT:



A handwritten signature in black ink, which reads "Richard Kwasneski". The signature is written in a cursive style.

---

Richard Kwasneski, Chairman

Attest:

A handwritten signature in black ink, which reads "Elissa Ledvort". The signature is written in a cursive style.

---

Elissa Ledvort, Board Secretary

**ORDINANCE SBD #23-74**

WHEREAS, section 4.06 of the Regional Transportation Authority Act (“Act”) (70 ILCS 3615/4.06) establishes regulations governing public bidding for the Regional Transportation Authority (“RTA”) and its service boards.

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

BE IT ORDAINED:

1. The Board of Directors of Pace hereby adopts the attached Regulations Governing Public Bidding (“Regulations”), which are effective \_\_\_ October 24, \_\_\_, 2023.
2. The Executive Director of Pace is hereby authorized to execute, implement, administer, and enforce the Regulations.
3. Detailed procurement policies and internal operating procedures have been developed and implemented to enforce the principles specified in the Regulations.
4. ORDINANCE SBD #19-59 adopting the previous Regulations is hereby superseded.

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

I. PURPOSE

1.01 The Board has adopted these Regulations to promote full and fair competitive bidding in Pace procurements and contracts to ensure compliance with section 4.06 of the Act (70 ILCS 3615/4.06) and to ensure that all federally funded procurements adhere to the requirements specified in 2 C.F.R. part 200, the Federal Transit Administration (“FTA”) Circular 4220.1F (Third Party Contracting Guidance), and the FTA Master Agreement.

II. DEFINITIONS

2.01 Definitions. As used in these Regulations:

- a. “Act” means the Regional Transportation Authority Act, 70 ILCS 3615/1.01 et seq.
- b. “Metropolitan Region” means all territory included within the territory of the RTA as provided in the Act, and such territory as may be annexed to the RTA.
- c. “Pace” means Pace, the Suburban Bus Division of the Regional Transportation Authority.
- d. “Board” means the Board of Directors of Pace.
- e. “Professional Services” means occupations requiring professional licenses such as accountants, attorneys, auditors, architects, bankers, doctors, engineers, healthcare and pharmaceutical representatives, land appraisers, realtors, and surveyors.
- f. “Regulations” means Pace’s Regulations Governing Public Bidding.
- h. “Transportation Agency” means any individual, firm, partnership, corporation, association, body politic, municipal corporation, public authority, unit of local government, or other person, other than the RTA and its service boards, 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 District 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 Goods, Services, Materials, Supplies, Equipment, and Products. Except as otherwise specified in these Regulations, all contracts or purchase orders for the acquisition of goods, services, materials, supplies, equipment, and/or products (“items”) (including rolling stock and excluding Professional Services) involving a cost of more than \$250,000, or construction-related services involving a cost of more than \$40,000, must 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 these Regulations.
- 3.02 Purchases of Professional Services. Except as otherwise specified in these Regulations, all contracts or purchase orders for the acquisition of Professional Services involving a cost of more than \$250,000 must 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. This regulation does not apply to purchases of architectural and engineering (“A&E”) or related services directly leading to construction, alteration, or repair of real property (see section 3.03).
- 3.03 Purchases of A&E or Related Services that Directly Lead to the Construction, Alteration, or Repair of Real Property. All contracts, including design-build contracts, and purchase orders for the acquisition of A&E or related services that directly lead to the construction, alteration, or repair of real property must adhere to a qualifications-based selection process or the Request for Qualifications (“RFQ”) process in accordance with the Brooks Act (40 U.S.C. 1101 et seq.).
- 3.04 Sales. Except as otherwise specified in these Regulations or allowed by federal regulations, all sales and disposal of Pace property, excluding real property, must be let by free and open bidding unless, as determined by Pace’s Chief Procurement Officer (“CPO”), the property is deemed to be scrap value. The posting of Pace property on any publicly available auction website will satisfy this public bidding requirement.
- 3.05 Exceptions. The competitive bidding requirements do not apply to:
- a. services of expert witnesses, law firms, attorneys, and other Professional Services providers whose assistance is, in the opinion of Pace’s General Counsel, necessary to resolve a legal matter, subject to approval by the Chairman of the Board;

- b. services of lobbyists and legislative consultants, subject to approval by the Board;
- c. non-federally funded procurements for which the Board determines that competitive bidding is disadvantageous;
- d. contracts for the purchase of the services of a bond trustee in connection with Pace's municipal debt;
- e. purchases of training courses or seminars;
- f. payment of industry association membership dues or professional licensing fees;
- g. purchases of publication subscriptions;
- h. purchases of radio, television, online, or print advertising;
- i. purchases of services of an artist, celebrity spokesperson, musical performer, model, or master/mistress of ceremonies;
- j. purchases of insurance brokerage services and related insurance policies;
- k. purchases of Pace-business related travel for Pace employees and Board members;
- l. leasing of space for Pace-hosted events;
- m. immediate order, purchase, and/or delivery of items directly related to the provision of public transportation services by Pace when the safety of Pace, its employees, its riders, or the general public is jeopardized; in the case of public exigency; or when Pace's Executive Director or CPO has made a written determination that an emergency requires the immediate order, purchase, and/or delivery of items and presented that determination to the Board within five working days of that determination;
- n. items solicited from a limited number of sources, justifiably limited to brand name products, or limited firms (for non-federal procurements) provide said items;
- o. contracts to maintain or service equipment that are entered into with the manufacturer or authorized service agent of that equipment when such

maintenance or service can only be performed by that manufacturer or authorized service provider so as not to void the applicable warranty;

- p. contracts for proprietary hardware and/or software that adhere to FTA requirements as approved by the CPO;
- q. contracts to maintain or service proprietary hardware and/or software that are entered into with the manufacturer or authorized service provider of that proprietary hardware and/or software when the maintenance or service can only be performed by that manufacturer or authorized service provider;
- r. items procured from a governmental agency when federal funds are not utilized or when state laws or regulations do not prohibit such procurement;
- s. purchase of real estate;
- t. cooperative purchases, including a contract awarded utilizing a schedule type joint procurement program procured/administered 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 procured/administered by another governmental entity (e.g., the General Services Administration Cooperative Purchasing Program for Schedules 70 and 84) when that other governmental entity has utilized a competitive bidding process in the original procurement;
- u. joint procurements in which another governmental entity serves as the lead agency and competitively awards contracts that other governmental entities may draw upon to meet their needs;
- v. acquisition of utility services;
- w. acquisition of public transportation equipment, including buses and rolling stock, provided: (i) the Board determines by a 2/3 vote that a negotiated acquisition process offers opportunities with respect to the cost of financing the equipment, its delivery, or the performance of a portion of the work within the state or the use of goods produced or services provided within the state; (ii) a notice of intention to negotiate for the acquisition of such public transportation equipment is published in a newspaper of general circulation within the City of Chicago inviting proposals from qualified vendors; and (iii) any contract with respect to such acquisition is authorized by a 2/3 vote of the Board;
- x. purchase of service agreements with any Transportation Agency;

- y. purchases, sales, or other contracts or agreements with any unit of local government;
- z. intergovernmental agreements with other units of government for the purpose of providing, facilitating, or supporting public transportation and related support services; and
- aa. assignment of contract authority in which an assignability clause is contained in another governmental entity's 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 procurements subject to the competitive bidding requirements in article III must be published at least once in a newspaper of general circulation in the Metropolitan Region at least ten calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the date for the opening of bids or receipt of proposals.
- 4.02 Content of Public Notice. The public notice specified in section 4.01 must describe the character of the proposed contract in sufficient detail to enable bidders/proposers to know what their obligations will be or must include a reference to detailed plans and specifications available on Pace's website at the time the first public notice is published. The public notice must also state the date, time, and place for the opening of bids or receipt of proposals. No bids/proposals may be accepted subsequent to the date and time indicated in the public notice. Pace may grant an extension of date and/or time for the opening of bids or receipt of proposals upon issuance of an addendum to all bidders/proposers and with notice given on Pace's website of the date and/or time to which the opening of bids or receipt of proposals has been extended.
- 4.03 Additional Notice. Nothing in these Regulations will be construed to prevent Pace from providing additional notice for the solicitation of bids/proposals.
- 4.04 Collusion. Any agreement or collusion between or among bidders/proposers or prospective bidders/proposers in restraint of freedom of competition by agreement to offer a fixed price, or otherwise, will render the bids/proposals of those bidders/proposers void. Bidders/proposers must accompany their bid/proposal with a certification/affirmation that they have not been a party to any such agreement or collusion.
- 4.05 Opening of Bids. All bids will be publicly opened, read aloud, and recorded. A minimum of two Pace staff members must be present at such bid opening; one Pace

staff member must read the bids aloud and another Pace staff member must visually confirm and, in the absence of an electronic procurement system, record the bids. The name of each bidder/proposer, the amount of each bid/proposal, and other relevant information will be publicly posted on Pace's website within 48 business hours after the bid opening.

- 4.06 Records Required. Bids/proposals must be entered on a record showing the name of each bidder/proposer and the apparent lowest responsive and responsible bidder or the highest rated, responsive, and responsible proposer. A copy of each awarded purchase order or contract, together with all attachments, proposals, and assignments thereto, will be retained by Pace for the period of time after expiration or termination of the purchase order or contract during which an action against Pace might ensue under applicable statutes of limitation.
- 4.07 Determining Responsiveness of Bidders/Proposers. In determining the responsiveness of bidders/proposers, Pace may consider the timeliness of bid/proposal submission, the proper completion of required procurement documents, DBE goal compliance, and other pertinent responsiveness factors.
- 4.08 Determining Responsibility of Bidders/Proposers. In determining the responsibility of bidders/proposers, Pace may consider past dealings, experience, adequacy of equipment, special or unique licenses, certification or skills required in the performance of the contract, ability to complete performance within a specified time, debarment by the federal government or other governmental agency, and other pertinent responsibility factors.
- 4.09 Rejection of Bid/Proposal. Pace may reject any bid/proposal, in whole or in part, for any reason.

## V. CONTRACTS AND CHANGE ORDERS

- 5.01 Assignment of Contracts. Contracts or purchase orders may not be assigned by the successful bidder/proposer without the prior written consent of Pace.
- 5.02 Authorization and Execution.
  - a. Except as specified in section 5.02(d), every contract issued by Pace that is \$250,000 or less must be signed by the CPO or Pace's Chief Administration Officer.
  - b. Every contract that is issued by Pace that is more than \$250,000 must be signed by Pace's Executive Director.



- c. Every contract that is awarded by the IFB 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 must be signed by the CPO or Pace's Chief Administrative Officer if the contract is \$250,000 or less, by Pace's Executive Director if the contract is \$250,001 to \$500,000, or by Pace's Executive Director after Board approval if the contract is more than \$500,000.
- d. Every contract that is awarded by the RFP or Request for Qualifications process must be signed by the CPO or Pace's Chief Administrative Officer if the contract is \$250,000 or less or by Pace's Executive Director after Board approval if the contract is more than \$250,000.
- e. Every contract that is deemed a sole source, except those contracts specified under section 3.05(n), must be signed by the CPO or Pace's Chief Administrative Officer if the contract is \$150,000 or less or by Pace's Executive Director after Board approval if the contract is more than \$150,000.

5.03 Conflict of Interest. Board members, officers, and employees and their spouses and minor 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 property of Pace. Any firm, partnership, association, or corporation from which any Board member, officer, or employee is entitled to receive more than 7.5% of the total distributable income of such firm, partnership, association, or corporation, 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 property of Pace. Any firm, partnership, association, or corporation from which Board members, officers, or employees or their spouses or minor children are entitled to receive in the aggregate more than 15% of the total distributable income of such firm, partnership, association, or corporation is prohibited from having or acquiring any contract or direct pecuniary interest in any contract which involves the payment of funds or the transfer of property of Pace. Nothing in this section invalidates the provisions of any bond or security hereto or hereafter offered for sale or sold by or for Pace.

5.04 Contracts Violating Regulations. Any purchase order or contract executed in violation of these Regulations will be null and void (not including any bond or security offered for sale or sold by or for Pace) at the sole discretion of Pace.

5.05 Authorized Procurement Personnel. All procurement actions and contract negotiations will be overseen by the CPO and handled by authorized Pace Procurement Department personnel under the aegis of the CPO, except those

actions exempted by Pace's Check Requests policy (FI-06), intergovernmental agreements authorized by the Pace Legal Department, or actions covered under Pace's Field Change Policy (PC-02-D). No other Pace department may solicit bids, proposals, or quotes or engage in any other procurement actions, including committing to or soliciting contracts, changing contracts, and contract negotiations.

VI. DISADVANTAGED BUSINESS ENTERPRISES ("DBE") AND SMALL BUSINESS ENTERPRISES ("SBE")

6.01 DBE/SBE Program. It is Pace's policy to give every vendor, including DBEs/SBEs, an equal opportunity to conduct business with Pace.

- a. The DBE Liaison Officer ("DBELO") will review all procurements. For procurements that are not a sole source or that do not involve a cooperative purchasing agreement, the DBELO will review the procurement and supporting documents to determine the applicability of any SBE set-aside percentage or DBE goal. The DBELO must ensure that the determination is included in the procurement documents.b. Compliance with a DBE goal is a matter of bidder/proposer responsiveness. For a bidder/proposer to be responsive, the bidder/proposer must either commit to meeting the DBE goal or demonstrate adequate good-faith efforts to meet the DBE goal.
- c. If the DBELO determines that the successful bidder/proposer is not responsive because the bidder/proposer has not committed to meet the DBE goal and has failed to document that the bidder/proposer made adequate good-faith efforts to meet the goal, the DBELO will, before contract award, notify the bidder/proposer in writing of the determination and provide the bidder/proposer with an opportunity for administrative reconsideration. Pace's reconsideration official is Pace's General Counsel.