

**ORDINANCE SBD #18-14**


ADOPTED by the Board of Directors of Pace, the Suburban Bus Division of the RTA, February 14, 2018.

DIRECTORS VOTING AYE: 12 Canning, Carr, Hastings, Larson, Marcucci, Schielke, Shepley, Soto, Stephens, Tamley, Wells, Chairman Kwasneski

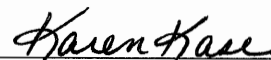
DIRECTORS VOTING NAY: 0

DIRECTORS ABSENT: 1 Claar

(Seal)

  
Richard Kwasneski, Chairman

Attest:

  
Karen Kase, Acting Board Secretary

**ORDINANCE SBD #18-14**

Staff recommends approval of an Ordinance authorizing revision of Pace Regulations Governing Public Bidding. The proposed revision includes the legislative change to Section 4.06(a) of the RTA Act.

ORDINANCE SBD #18-14

WHEREAS, Section 4.06 of the Regional Transportation Authority (RTA) Act establishes regulations governing public bidding for the RTA and its Service Boards; 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 (or as amended) for federally funded procurements; and

WHEREAS, the Illinois Legislature has amended the required threshold for public bidding in the RTA Act from \$40,000 to \$150,000, the current FTA small purchase threshold.

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 February 15, 2018.
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 ORDINANCE SBD #15-21 adopting the previous Pace Regulations Governing Public Bidding is hereby superseded.

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

I. PURPOSE

- 1.01 These regulations have been adopted to 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 Regional Transportation Authority (RTA) Act.
- 1.03 These regulations have also been adopted to ensure that all federally funded procurements adhere to the requirements set forth in the Federal Transit Administration's Circular 4220.1F (or 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 the 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. "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 (a cost of more than \$40,000) or related services, or general services (not professional services as detailed below), involving a cost of more than \$150,000 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 \$150,000 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 (A&E) and related services that directly lead to the construction, alteration, or repair of real property shall adhere to qualifications-based selection process or the Letters of Interest and Qualifications (LIQ) process and award will be made to the highest technically rated A&E firm who offers a fair and reasonable price as determined by Pace. All federally funded A&E

procurements with a value exceeding \$3,000 shall adhere to the Federal Brooks Act (PL 92-582) 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 sale of any Pace property 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.

The posting of Pace surplus property on any publicly available auction website which exists for the purpose of selling items to the general public or any interested party will satisfy this public bidding requirement.

- 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 solicited from a limited number of sources or justifiably limited to a brand name product(s) or limited firms (for non-Federal procurements).
- 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 the use or purchase of proprietary Information Technology (hardware or software) that are not federally funded.

- e. 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.
- f. 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.
- g. purchase of real estate.
- h. 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), where the other governmental entity has utilized a competitive bidding process in the original procurement.
- i. a joint procurement 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.
- j. the acquisition of utility services.
- k. 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.

- l. purchase of service agreements with any Transportation Agency.
- m. purchases, sales, or other contracts or agreements entered into by Pace with any unit of local government.
- n. intergovernmental agreements with other units of government for the purpose of providing, facilitating or supporting public transportation and related support services.
- o. 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 bids/proposals to award purchase orders or contracts subject to Article III, Competitive Bidding, 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/proposals, and shall simultaneously be posted at the principal office of Pace.

4.02 Content of Public Notice. Advertisements for bids/proposals shall describe the character of the proposed contract in sufficient detail to enable the bidders/proposer 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.

The advertisement shall also state the date, time, and place for the opening of bids or receipt of/ proposals, and no bids shall be received subsequent to the date and time indicated in the announcement. An extension of date and/or time may be granted for the opening of such 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 to which the bid opening has been extended. The time of the bid opening extension shall not be less than five (5) days.



- 4.03 Additional Notice. Nothing in these Regulations shall 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 bid a fixed price, or otherwise, shall render the bids/proposals of such bidders/proposers void. Each bidder/proposer shall accompany its bid/proposal with a signature and notary, or otherwise swear or affirm, that it has not been a party to any such agreement. Any disclosure made or permitted by Pace in advance of the opening of bids/ or receipt of proposals of the terms of the bid/proposal 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.
- 4.05 Opening of Bids. All bids that are procured utilizing the competitive bid or IFB process shall be publicly opened, read aloud, and recorded in writing. There shall be a minimum of two Pace staff present at such bid opening with one reading bids aloud and one visually confirming and recording the bids.
- 4.06 Records Required. Each bid/proposal received under these Regulations shall be entered on a record showing the name of each bidder/proposer and indicating the apparent low bidder or the highest ranked proposal. An official copy of each awarded purchase order or contract, together with all attachments, proposals, 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.
- 4.07 Determining Responsive Bidder/Proposer. In determining the responsiveness of any bidder/proposer Pace may take into account other factors in addition to specification compliance, such as timely submission of bids, completed compliance or certification documents, DBE/SBE goal compliance, signed and notarized non-collusion affidavit, and other pertinent responsiveness considerations.

- 4.08 Determining Responsible Bidder/Proposer. In determining the responsibility of any bidder/Proposer, 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.
- 4.09 Rejection of Bid/Proposal. Any bid/proposal, in whole or in part, 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 awarded contractor without prior, written authorization of Pace.
- 5.02 Authorization and Execution.
- a. Every contract that is issued by Pace that exceeds \$150,000, but does not exceed \$250,000, shall be signed by the Chief Procurement Officer as designated by the Executive Director of Pace.
  - b. Every contract that is issued by Pace that exceeds \$250,000 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 \$150,000 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 incomes 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. SBD #13-45 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 \$150,000) shall be handled under the aegis of the Chief Procurement Officer 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) AND SMALL BUSINESS ENTERPRISES (SBE)

6.01 DBE/SBE Program. It is Pace's policy to give every vendor, including DBEs/SBEs equal opportunity to conduct business with Pace. Pace's DBE Liaison Officer (DBELO), shall set annual goals for the portion of Pace contracting that will be awarded to DBEs/SBEs, and report such goals to the Board.

- a. The DBELO will review all federally funded procurements in excess of \$150,000 and all other non-federally funded procurements in excess of \$150,000, 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, the DBELO will assign a DBE/SBE Goal to the procurement. The DBE/SBE Goal, if any, will be included in the solicitation documents.
- b. DBE/SBE Goals can be satisfied in one of two ways: (1) by committing to meet the DBE/SBE Goal in its entirety; or (2) by documenting its attempt to meet the goal through detailed, corroborating evidence.
- c. Compliance with a DBE/SBE Goal is a matter of bidder Responsiveness. For a Bid to an IFB or RFP to be Responsive, the Bid must either commit to meeting the DBE/SBE Goal, or demonstrate good faith efforts to meet the DBE/SBE Goal.