



PROCUREMENT & CONTRACTING POLICY MANUAL



Revision #	Approval Date	Description
1	10/21/2021	<i>Review 10/21/21 Board Meeting for complete list.</i>
2	3/20/2023	<i>Increased thresholds and revised approval authority.</i>



Contents

Introduction.....	4
Part 1 Mission, Vision, Values	5
1 – 101 Mission.....	5
1 – 102 Vision.....	5
1 – 103 Values.....	5
Part 2 Roles & Responsibilities	6
2 – 101 Third Party Contracting Capacity.....	9
2 – 102 Oversight of Sub-recipients on Grant Funded Projects	9
2 – 103 Changes to Policy or Procedure.....	10
Part 3 Procurement & Contracting Guidelines.....	11
3 – 101 Application.....	11
3 – 102 Best Value	11
3 – 103 Purchase Evaluations	12
3 – 104 Ethics in Procurements and Contract Management	12
3 – 105 Conflict of Interest	13
3 – 106 Gifts, Gratuities, and Lobbying	13
3 – 107 Public Access to Procurement Information.....	14
3 – 108 Oversights, Errors, and Corrective Action.....	15
3 – 109 Files and Record Retention.....	15
3 – 110 Joint Procurement.....	16
3 – 111 Contact with Vendors, Bidders and Proposers	16
3 – 112 Product Demonstrations.....	16
Part 4 Procurement Policy	17
4 – 101 Prohibited Purchases	17
4 – 102 Solicitation Standards	17
4 – 103 Acquisition Plan.....	21
4 – 104 Independent Cost Estimate (ICE).....	21
4 – 105 Fair and Reasonable Documentation	22
4 – 106 Price Analysis.....	22
4 – 107 Cost Analysis	22
4 – 108 Competitive Exemptions.....	22
4 – 109 Terms and Conditions Review.....	24
4 – 109 Emergency Purchases	24
4 – 110 Sole Source.....	24
4 – 111 Single Source	24
4 – 112 Technology Purchases	25
4 – 113 Cooperatives, Government Purchasing Schedules, & Piggyback Contracts..	25
4 – 114 Small Works Rosters.....	25
4 – 115 Equal Employment Opportunity	25
4 – 116 Veteran’s Employment	26



PURCHASING & CONTRACT ADMINISTRATION POLICY

4 - 117 Supplier Diversity 26

4 - 118 Prequalification System..... 26

4 - 119 Lease vs Purchase Alternatives..... 27

4 - 120 Pre-Payments..... 27

4 - 121 Invoice and Progress Payment Approval..... 27

4 - 122 Purchasing Credit Cards (P-Cards)..... 28

4 - 123 Purchase Order 29

4 - 124 Blanket Purchase Orders 29

4 - 125 Purchase Order Changes 29

4 - 126 Contractor Insurance..... 29

4 - 127 Prevailing Wage & Davis Bacon 30

4 - 128 Bonds..... 30

4 - 129 Disposal of Surplus Property 31

4 - 130 Job Order Contracting 32

Part 5 Contract Management Policy33

5 - 101 Contract Formation 33

5 - 102 Contract Structure 33

5 - 103 Legal and Risk Management Review 34

5 - 104 Digital Click Through Agreements..... 34

5 - 105 Contract Administration Plan 34

5 - 106 Contractor Performance Monitoring..... 35

5 - 107 Contract Changes..... 35

5 - 108 Contract Options..... 36

5 - 109 Contract Disputes and Claims..... 36

5 - 110 Digital Signatures 37

5 - 111 Contract Terms, Conditions and Certifications 38

5 - 112 Alternative Dispute Resolution..... 38

5 - 113 Contract Closeout..... 38

Part 6 Definitions 40

Appendix 46

Appendix 1 Approval Authority Matrix 46

Appendix 2 Procurement Thresholds 47

Appendix 3 Procurement Cycle..... 50

Appendix 4 Solicitation Protest Procedures..... 51



Introduction

Whatcom Transportation Authority's (WTA) operates the public transportation system throughout Whatcom County, including planning, designing, and project programming. WTA obtains revenues and subsidies from federal, state, and local sources to procure necessary goods, services, vehicles, materials, and supplies. This Purchasing Policy Manual (Manual) defines, and guides purchases and contract awards in accordance with all applicable laws and regulations of the State of Washington, the U.S. Government, and Federal Transit Administration (FTA)¹.

If a conflict arises between procurement policies or procedures and a law or regulation, the most restrictive prevails. The contents of this Manual provide guidance to staff and should not be used in lieu of instructions from WTA's Procurement Department or WTA Legal Counsel.

Procurement and Contract Management policies and procedures apply to all employees with procurement authority.

¹ RCW 36.57A.080



Part 1 Mission, Vision, Values

1 - 101 Mission

Staff with procurement authority will promote WTA’s core values and strategic goals. Procurements will be efficiently managed in a transparent and timely manner, ensuring the highest quality of goods and services, fair treatment of the vendor community, and the best use of public funds. The Procurement Department shall partner with internal customers and suppliers, professionally and ethically, to further WTA’s mission.

1 - 102 Vision

Staff will achieve the highest standard of public procurement through integrity, fairness, and accountability. Customers, vendors, and the public will have confidence that WTA takes the stewardship of public funds seriously.

1 - 103 Values

WTA’s procurement values guide individuals involved in the negotiation, performance, and administration of WTA’s purchases and contracts.

- **STEWARDSHIP** – Responsibly utilizing public funds in all purchasing and contract management activities.
- **ETHICS** – Partnering with stakeholders to reach their goals within the boundaries of procurement regulations.
- **TRUTHFULNESS** – Speaking truthfully and being forthcoming, while providing technically accurate information.
- **IMPARTIALITY** – Unbiased decision making and encouraging fair and equal treatment of vendors in business dealings.
- **ACCOUNTABILITY** – Taking ownership and responsibility for our actions and the outcomes of our decisions.
- **PROFESSIONALISM & TRANSPARENCY** – Creating and applying easily accessible and understandable policies and processes that demonstrate responsible use of public funds.
- **SERVICE** – Obligation to stakeholders in reaching their goals supports the public good.
- **COMPETENCE** – Continuous learning and improvement to leverage experience and associations.

Part 2 Roles & Responsibilities

Board of Directors: WTA's Board of Directors (BOD), has actual authority to approve procurements and contracts, agency operating and capital budgets, all capital projects, and all budget amendments².

WTA's Board of Directors will approve:

- All contracts and purchases over the General Manager's approval authority outlined in Appendix 1.
- Substantive or material contract changes.
- Real Estate transactions including new property purchases, and lease amendments that substantially or materially change the lease or lease requirements.
- Disposals as outlined by Policy 4-128.
- Interlocal Agreements.
- Other items as determined by the General Manager.

The BOD may waive procurement requirements. Any waivers require a majority vote or resolution at a public meeting and must be permissible by State or Federal Law.

General Manager: WTA's General Manager (GM), is delegated authority by the BOD through Resolution 340-23 to authorize procurements and contracts as outlined in the Approval Authority Matrix (Appendix 1). The GM directs and conducts WTA business transactions based on by-laws and policy including:

- Delegating procurement authority through the Approval Authority Matrix and Project Approval Authority Form.
- Approving unplanned capital expenditures.
- Approving individual Division or account operating expenses.
- Approving procurements per the Approval Authority Matrix.
- Approving and signing all contracts and amendments over the micro purchase limit.
- Approving capital project overruns unless otherwise authorized in BOD project approval.
- Approving invoices for payment per the Approval Authority Matrix.
- Approving disposals per the Approval Authority Matrix.
- Reviewing and administering any Procurement Policy Exception forms with the Finance Director and involved divisions.
- Submitting annual Certifications & Assurances with FTA including procurement system self-certification.
- Settling contract disputes escalated by the Finance Director.
- Approval of sole source or single source procurements.

Finance Director: The Finance Director oversees WTA's Procurement Department functions including:

- Reviewing and endorsing surplus disposals when applicable.

² WTA POL-502-01



PURCHASING & CONTRACT ADMINISTRATION POLICY

- Managing procurement policy, procedure, and tasks ensuring consistency with Federal and State requirements and BOD instructions.
- Auditing WTA's procurements against Federal and State requirements and policy and procedure.
- Resolving disputes pertaining to procurement policy, procedure, or tasks.
- Settling contract disputes when the Procurement Department is unable to reach an agreement or resolve the issue, when time is of the essence, or negotiating proposed settlement terms when the negotiated settlement requires BOD approval.

Division Directors: Division Directors sponsor purchases and contracts or projects necessary for division operations to achieve agency goals while ensuring procurement policy and procedures are followed. Division Directors responsibilities include:

- Identifying requirements to fulfill department assignments.
- Confirming requirements are within the division approved budget.
- Coordinating with the Procurement Department to define the means and methods available to fulfill division operations.
- Approving and endorsing delegated purchases and invoices (Appendix 1).
- Partnering with the Procurement Department in developing Independent Cost Estimates (ICE's), scopes of work, product specifications, evaluation criteria, vendor qualifications, and contract performance requirements.
- Initiating and endorsing contracts and Change Orders pertaining to division operations.
- Endorsing disposals requested by their divisions.
- Consulting with the Procurement Department regarding contractor compliance issues, day-to-day performance including direction and oversight of tasks, completing performance evaluations and negotiating contract extensions and modifications.
- Ensuring staff is familiar with, properly trained in, and follows procurement policies and procedures.

Procurement Department: Organizes and manages procurements according to WTA policy and procedures, including but not limited to:

- Ensuring agency compliance with policy and procedure, and Federal and state procurement regulations.
- Overseeing WTA's business interest in terms of stewardship, integrity, fairness, and accountability throughout the Procurement Cycle (Appendix 3).
- Developing specific policies and procedures to conduct procurement and contracting business.
- Selecting methods of procurement that are in line with WTA policies, procedures, and best practices.
- Collaborating with Project Managers prior to each purchase to develop an Acquisition Plan for each project.
- Ensuring projects are delivered in a manner that achieves project goals.
- Teaming with departments to identify needs and carry out project goals.
- Endorsing procurements as delegated by the Approval Authority Matrix.
- Working with WTA Legal Counsel to ensure review of contracts.
- Endorsing final contracts.



PURCHASING & CONTRACT ADMINISTRATION POLICY

- Partnering with Project Managers to create a Contract Administration Plan (CAP) as part of the award process.
- Reviewing and endorsing purchase requisitions, quotes, and vendor selection supporting documentation.
- Coordinating with responsible divisions to draft Formal Solicitations.
- Assisting Project Managers in completion of Acquisition Plan.
- Issuing purchase orders, task orders, change orders.
- Administering the Purchasing Card (P-Card) program.
- Managing all formal solicitations.
- Partnering with divisions and vendors in all contract negotiations.
- Reviewing and negotiating contract terms based on statutory regulations and WTA policies.
- Managing public works requirements including, intent and affidavit review, retainage withholding, contractor bonding, and obtaining required public works releases from required Washington State agencies.
- Training and advising staff on purchasing policies, procedures, and best practices.
- Coordinating contract extensions, modifications, and task orders.
- Administering contracts for compliance with terms, performance, pricing, and deliverables.
- Recommending business decisions to the GM based on the performance of any contract.
- Settling contract disputes when Project Managers cannot reach an agreement or resolve the issue, when time is of the essence, or when the negotiated settlement requires BOD approval.
- Reviewing and approving WTA's surplus disposals in cooperation with divisions as outlined in the Approval Authority Matrix.
- Assisting divisions with vendor performance issues. May mediate contract terms between WTA and vendor.
- Administering WTA's Disadvantaged Business Enterprises (DBE) program.
- Maintaining the official procurement and contract files of record.
- Interviewing contractor and sub-contractor staff for verification of Prevailing Wage or Davis Bacon.
- Arranging required third party inspections and certifications.
- Managing final inspection and project acceptance.

Project Managers: Designated agency staff authorized to purchase and recommend goods and services, and endorses invoices related to specific projects. Project Manager responsibilities include:

- Collaborating with the Procurement Department prior to each purchase to develop an Acquisition Plan for each project.
- Overseeing technical performance of the contract and work scopes.
- Developing project work scopes based on agency wide goals and approved budget.
- Confirming purchasing methods with the Procurement Department based on funding source and total purchase amount.
- Completing a life cycle cost for the project.³
- Working with the Procurement Department to create a CAP as part of the contract award process.

³ WTA POL- 502-01



PURCHASING & CONTRACT ADMINISTRATION POLICY

- Assisting the Procurement Department in contract negotiations, extensions, and modifications.
- Monitoring project spend against approved budget.
- Approving and endorsing delegated purchases and invoices (delegated by an approved Project Approval Authority).
- Supervising and coordinating day-to-day contractor and internal resource activities.
- Consulting with the Procurement Department regarding contractor compliance issues, daily performance including direction and oversight of tasks, and completing (or conducting) performance evaluations.
- Resolving contract disputes within authority provided by the Approval Authority Matrix or approved Project Approval Authority.
- Ensuring the technical delivery of the project based on the original Scope of Work or Statement of Work.
- Tracking and analyzing project performance and reports on completion of short- and long-term goals.

All Other Authorized Employees: All other Agency staff authorized to purchase goods and services, endorse, or approve purchases, contracts, and invoices delegated by the Approval Authority Matrix and the limits defined by their division Director.

2 – 101 Third Party Contracting Capacity

As part of being an FTA recipient, WTA will maintain adequate technical capacity to carry out its projects and comply with the Common Grant Rules⁴. WTA's third-party contracting capability must be adequate to undertake its procurements effectively and efficiently in compliance with applicable Federal, State, and local requirements.

Within WTA, procurement and contracting duties are assigned to the Procurement Department of the Finance Division. If WTA lacks qualified personnel within its organization to undertake the various procurement tasks, WTA may acquire the necessary services from a third party. When using outside sources, WTA takes appropriate steps to prevent or mitigate individual or organizational conflicts of interest that would result in conflicting roles that might bias staff or a contractor's judgment or results in an unfair competitive advantage.

2 – 102 Oversight of Sub-recipients on Grant Funded Projects

A third-party contractor or subcontractor may be considered a "sub-recipient" for purposes of any Federal project⁵. WTA will ensure that each third-party contractor complies with the applicable requirements and standards, and that contractors at each level are aware of the Federal statutory and regulatory requirements that apply to its actions.

⁴ FTA C4220.1F, Ch. III, 3.a

⁵ 2 CFR 200.331



2 - 103 Changes to Policy or Procedure

Procurement policy and procedure review occurs at least once a year after the spring Legislative session. Policy will be reviewed against Washington State procurement and contracting changes, the current Federal Master Agreement, 2 CFR 200, and applicable circulars.

Additions, deletions, or revisions to any State or Federal law or regulation or requested by the Washington State Auditor or Federal Reviewers will supersede this Manual. Procurement will promptly update the Manual for compliance.

Procedures, forms, other administrative tools, and their changes do not require BOD approval.



PURCHASING & CONTRACT ADMINISTRATION POLICY

Part 3 Procurement & Contracting Guidelines

3 - 101 Application

This Manual applies to all WTA procurements and contracts. Nothing in this Manual prevents WTA from complying with the terms of any grant, gift, or bequest if any associated procurement is consistent with law. When a conflict occurs between State and Federal regulations, the more restrictive will apply.

If a project has the potential to utilize grant funds for future work, all funds spent on the project will follow external agency procurement rules known at the time of the procurement. This occurs to preserve the agency's ability to apply for future grants and be compliant with state or federal requirements. For example, NEPA requirements will be considered before groundwork is performed to enable WTA to potentially apply for federal grants for future work on a site.

Policies establish standards for obtaining necessary goods and services. Procedures include guidelines for the solicitation, negotiation, award, and administration of all purchases and contracts, and are addressed separately from this Manual.

3 - 102 Best Value

The goal of obtaining best value includes:

- Achieving the best possible return in the purchase of goods and services.
- Recognizing best value is not always lowest price.
- Ensuring that WTA, as a public agency, does not pay higher prices than the average consumer.

WTA staff exercises their best professional judgement to evaluate the reasonableness of a proposed expenditure. Specific guidance for the application of professional judgement is provided in this Manual and applicable procedures. Unreasonably low or excessively high prices can indicate a mistake or misunderstanding in the solicitation request.

This Manual incorporates these best value philosophies:

- Total Cost of Ownership including:
 - Purchase price
 - Ongoing maintenance costs
 - Staffing costs and time
 - Product life cycle
 - Costs of disposal
- Suitability of the goods or services to meet the project objective.
- Timely project delivery.
- Appropriate planning and scope preparation.
- Partnerships with the vendor community.
- Equity, environmental, and economic impacts.

3 – 103 Purchase Evaluations

WTA staff evaluate all purchases based on the individual merits of each proposal. WTA describes how proposals are evaluated to the vendor pool. Evaluation criteria relate directly to the good or service required and are allowable by law, regulation, or another documented requirement. Any change to the evaluation method or criteria will be issued as an addendum before submissions are evaluated.

Evaluation teams may be formed to review and score proposals regardless of value or complexity. Team members receive training on evaluation procedures, conflict of interest, and ethics prior to evaluating proposals⁶. Team scores are averaged based on the number of evaluators and their total score for each category. Should two (2) or more proposals fall within two (2) points of each other, they are considered competitively equal. WTA may award to both proposers or request additional information to further evaluate and eliminate the equality. The highest scoring proposal from a responsive and responsible vendor is selected for award (See 4-102).

Evaluators shall always treat all vendors equally (See 3-104 and 3-105):

- Evaluating submissions based on their individual merit, not comparing with other submissions or the evaluators personal preference.
- Providing the same information including scope requirements, evaluations, and negotiations to all potential vendors.
- Striving always to remain impartial and objective when reviewing vendor offers⁷.
- Maintaining awareness of bias and consciously mitigating bias in the evaluation.

3 – 104 Ethics in Procurements and Contract Management

WTA will provide a fair, objective, and equitable selection and contracting environment.

Employees making purchases and overseeing contracts must be familiar with procurement and contracting procedures and underlying principles. Division Directors will ensure their employees are familiar with this Manual, all other purchasing and contract rules and procedures, and WTA Policies on Ethics⁸ and Conflicts of Interest⁹ which are incorporated into these procedures.

BOD members and WTA employees violating WTA Procurement & Contracting policy and procedures will be subject to action to the extent permitted by Federal, State, or local law or regulations up to and including fines, criminal or civil penalties, or forfeiture of office¹⁰.

⁶ 2 CFR 200.318(c)(1)

⁷ FAR 3.101-1

⁸ WTA POL-411-12

⁹ WTA POL-411-06

¹⁰ FTA C4220.1F, Ch. III, 1.c, RCW 42.23.050



3 – 105 Conflict of Interest

No employee, officer, BOD member, or Agent of WTA shall participate in the selection, award, or administration of a contract or purchase, if a real or apparent conflict of interest exists¹¹. Individual conflicts arise when a financial or other interest in the firm(s) considered or selected for award exists for:

1. A WTA employee, officer, director, agent or supervisor of a WTA employee, officer, director, or agent
2. Any member of his/her immediate family
3. His/her present or former business associate
4. An organization which employs or is about to employ any of the above

Organizational conflicts of interest are prohibited. An organizational conflict of interest exists when¹²:

- Lack of Impartiality or Impaired Objectivity. The contractor or WTA staff is unable, or potentially unable, to provide impartial and objective assistance or advice.
- Unequal Access to Information. The contractor accesses nonpublic information during the performance of an earlier contract or has been provided with information other contractors have not during procurement.
- Biased Ground Rules. A contractor has established the ground rules for procurement by developing specifications, evaluation factors, or similar documents. Contractors that develop or draft specifications, requirements, statements of work, for upcoming procurements are excluded from competing for such procurements¹³.
- A contractor is asked by WTA to evaluate proposals for a job they have bid on.

Market research conducted by WTA staff to draft a procurement is not a conflict UNLESS staff promises a contract award.

WTA analyzes each purchase to identify and evaluate possible organizational conflicts of interest as early as possible to avoid, defuse, and mitigate conflicts before contract award¹⁴.

3 - 106 Gifts, Gratuities, and Lobbying

No director or employee of WTA may solicit or accept any gift, gratuity, loan, or other item or service of value¹⁵ if:

1. The performance of their official duties would be influenced or appear to be influenced.
2. They have been, are presently, or may soon be involved in any official act or action not associated with WTA business.

¹¹ 2 CFR 200.112, 2 CFR 200.318(c)(1), RCW 42.23.030, WTA Policy 411-06

¹² FTA C4220.1F, Ch. VI, 2a(4)(h)

¹³ 2 CFR 200.319(b)

¹⁴ 2 CFR 200.112

¹⁵ FAR 3.101-2, RCW 42.23.030, WTA POL-411-06



PURCHASING & CONTRACT ADMINISTRATION POLICY

Staff decline invitations for business lunches, parties, or similar functions if received from bidders or other parties involved during a pending procurement. This requirement is intended to avoid any situation giving an appearance of improper influence in WTA procurement activities.

Apart from the above, this section shall not apply to the following¹⁶:

1. An occasional non-commercial gift of nominal value accepted in the ordinary course of a business encounter such as pens or pads of paper.
2. Unsolicited advertising or promotional material of nominal intrinsic value less than \$25.
3. Events open to the general public.

Meals with a contracted vendor to conduct WTA business should be infrequent and not extravagant.

3 – 107 Public Access to Procurement Information

Documents submitted as part of WTA procurements or contracts are public records¹⁷ and, with limited exceptions, are made available for inspection and copying by the public when requested. Proprietary information submitted in response to a Procurement Action will be handled in accordance with applicable WTA policies and the Washington State Public Records Act. Contractors will seek the withholding of any proprietary information in the event of a public disclosure request, when an exception does not apply for WTA, and reimburse WTA for all associated legal fees. Questions about the Public Records Act are referred to WTA's Legal Counsel.

For competitive formal bids (ITB): within two (2) business days of the bid opening, WTA must provide copies of the bids it received if requested by a bidder. WTA will not execute a contract with the successful low responsive and responsible bidder during this two (2) day window¹⁸.

¹⁶ 2 CFR 200.318(c)(1), WTA POL- 411-16

¹⁷ RCW 42.56

¹⁸ RCW 39.04.105



3 - 108 Oversights, Errors, and Corrective Action

In case of policy or procedure oversight, the employee will complete a Procurement Policy Exception form. The GM and Finance Director will work with the employee's Supervisor and Procurement to ensure appropriate corrective action is implemented. In the event of repetitive oversights, the employee may face consequences including, but not limited to retraining, removal of procurement authority, suspension, or termination.

WTA may impose its own penalties for staff violating conflict of interest regulations or policies and procedures over and above those provided by the State of Washington¹⁹. Disciplinary action will follow WTA policy 404-02 on Administering Employee Corrective Action and be initiated by the Finance Director.

3 - 109 Files and Record Retention

The Procurement Department shall secure, create, and retain the file of record for all procurement and contracting actions. Retention and management will follow WTA policy and Washington State Guidelines²⁰. Procurement files contain all applicable documentation specific to each purchase and subsequent contracts²¹, including:

- The requisition.
- Solicitation or informal request for quotes.
- Informal bids or proposals.
- Any negotiation, evaluation, or meeting notes.
- Insurance certificates, surety bonds, lien notifications.
- Prevailing Wage documents.
- Correspondence.
- Grant compliance documentation.
- Notices.
- Disputes.
- Inspection and Acceptance.
- Purchase orders.
- Contract agreements.
- Changes.
- Procurement History.²²

This requirement extends to all goods and services procured above the Micro-Purchase limit, as well as any Sole Source or Emergency procurements. The documentation will be appropriate to the size and complexity of the procurement²³.

¹⁹ 2 CFR 200.318(c)(1), FAR part 3.101-3(a)(2), RCW 39.30.020, RCW 42.23.050

²⁰ RCW 40.14, WA Secretary of State Local Government Common Records Retention Schedule, POL-108-01

²¹ 2 CFR 200.318 (i), FTA C 4220.1F, Ch. III, 3.d

²² 2 CFR 200.318 (i), FTA C4220.1F, Ch. III, 3.d(1)

²³ 2 CFR 200.318(i)

A separate file for each Procurement Action shall be maintained regardless of the dollar value. Procurement shall ensure that all necessary documentation is included in the procurement and contract files.

3 - 110 Joint Procurement

WTA will partner with other government agencies in procurements whenever possible. The Procurement Department will coordinate and oversee joint procurements on behalf of WTA to ensure policy and procedures are followed and appropriate documentation is maintained²⁴.

3 - 111 Contact with Vendors, Bidders and Proposers

Before issuing a solicitation, staff may contact prospective vendors to gather data and inform potential vendors of an upcoming opportunity. WTA employees will not make or imply WTA's commitment for a possible future contract, provide advice pertaining to a future proposal/bid content, or offer tips on completing a proposal/bid (See 3-105). Accordingly, requests for complimentary services or supplies implying an obligation or promise on the part of WTA are prohibited (See 3-106).

Whenever a procurement is in process (e.g., during the solicitation, evaluation, negotiation, and award phases) all contacts with potential contractors or vendors shall be made through the Procurement Department. After WTA recommends the contract award to the BOD, WTA staff may engage with the selected contractor, unless otherwise directed by the Procurement Department.

3 - 112 Product Demonstrations

Unless the product or service is currently owned by WTA, staff receiving new products to test internally or requesting a demonstration for a potential contract will follow all Procurement guidelines. This includes:

- Ensure at least two (2) WTA employees are present.
- Holding testing or demonstrations for more than one (1) vendor.
- Refusal of any gifts or gratuities.
- Not promising a contract ahead of a procurement process.
- Following all ethics and conflict of interest policies.
- Evaluating all vendors on the same criteria.
- Requesting the same information from all vendors including detailed pricing when applicable.

²⁴ RCW 39.34

Part 4 Procurement Policy**4 - 101 Prohibited Purchases**

Staff are prohibited from procuring or paying for the following with WTA funds. The General Manager may add other categories as necessary:

- Alcoholic beverages, tobacco, cannabis or other items that may be statutorily legal, but against WTA policy.
- Bail and bond payments.
- For any food or beverages at any nightclub.
- Betting/track/casino/lotto.
- Cash advances.
- Fines, including those incurred when on WTA business.
- Gasoline for privately-owned vehicles.
- Gifts for non-WTA employees or donations to outside organizations.²⁵
- Travel insurance or rental car insurance.
- Massage parlors, dating and escort services.
- Materials or services from or for any member of a WTA employee's immediate family.
- Personal items or services.
- Prepayments unless authorized by policy 4 - 120.
- Payments to individuals or employees for non-business-related expenses.
- Stockbrokers, bond traders, or another exchange-traded fund dealer.
- Timeshare Memberships.
- Any illegal activities.

4 - 102 Solicitation Standards

The following standards apply to all solicitations regardless of value²⁶:

Competitive Solicitations

In most cases, all purchases for goods and services will be based on a full and open competitive solicitation process²⁷. Competitive exemptions are described in Section 4-108.

Staff will get quotes from at least three (3) vendors for purchases at the Small Purchase Threshold (See Appendix 2). Staff will provide rationale in writing when there are less than the minimum quotes.

Formal solicitations will be advertised in appropriate locations determined by Procurement for at least twenty (20) calendar days.

²⁵ POL-411.06

²⁶ 2 CFR 200.319, FTA C4220.1F, Ch. III, 3.a(1)

²⁷ 2 CFR 200.319(a), FTA C4220.1F, Ch. VI, 1 RCW 39.26.120

Contracts resulting in WTA leasing property or assets will be established from a competitive process²⁸ outlined in Appendix 2 unless a Sole Source can be reasonably justified.

Clear Descriptions

Solicitations will contain clear, accurate, and complete descriptions of the technical requirements and performance and design specifications for the material, product, or service²⁹. Goods and services will be limited to WTA actual needs³⁰. The addition of quantities or Options to allow for future assignments is prohibited³¹.

Nonrestrictive Specifications

Specifications containing features that restrict competition, discriminate, or arbitrarily exclude vendor(s) or product(s) will not be used. Examples include unreasonable business requirements, unnecessary experience requirements, improper pre-qualifications, non-competitive retainer contracts, excessive bonding, promoting a conflict of interest, and unnecessary geographical restrictions³².

Exceptions include the following³³

1. **Architectural Engineering (A&E) Services.**
2. **State Licensing Requirements.**
3. **Major Disaster or Emergency Relief.**

Brand Name or Equal

Technical specifications will include details of the qualitative nature and describe minimum essential characteristics and standards of the material, product, or service WTA requires³⁴. When using “brand name or equal” descriptions, clearly state the specific features or expected functions of the product³⁵. Proposers may offer solutions meeting the “brand name or equal” requirements. Not considering an equal product or not describing the relevant requirements is prohibited.

Promotion of Cost Savings & Efficiencies

WTA procurements will promote cost-effective solutions as allowed or promoted by law. Some examples include use of shared services, use of surplus and excess property³⁶, reasonable opportunities for cost reductions³⁷, limiting of acquisitions to foreseeable needs, avoidance of unnecessary or duplicate items, analysis of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach³⁸.

²⁸ RCW 36.57A.080

²⁹ 2CFR 200.319(d)(1), FTA C4220.1F, Ch. VI, 2.a

³⁰ 2 CFR 200.318 (d)

³¹ FTA C4220.1F, Ch. VI, 2.a(2)

³² 2 CFR 200.319(b), WA State AGO 61.62 No. 41

³³ 2 CFR 200.319(c), FTA C4220.1F, Ch. VI, 2.a(4)(g), Stafford Act, 42 U.S.C. 5150, 40 USC 11, POL-ALL-201-04

³⁴ 2 CFR 200.319(c), FTA C4220.1F, Ch. VI, 2.a(3)

³⁵ 2 CFR 200.319(c), FTA C4220.1F, Ch. VI, 2(a)(3)

³⁶ 2 CFR 200.318(f)

³⁷ 2 CFR 200.318(g)

³⁸ 2 CFR 200.318(d)



Environmental Protections and Energy Efficiency Preferences

WTA will comply with applicable environmental requirements and implement them as necessary through third party contracts.

To the extent practicable and economically feasible, preference for products and services that conserve natural resources, protect the environment, and are energy efficient is given³⁹.

1. **Products with Recycled Material.** Where appropriate, WTA may use recycled content as a weighing factor in making awards provided those recycled products meet 42 USC Sec. 6962(e) standards⁴⁰.
2. **Use of Compost and Biochar Materials.** WTA will require the use of compost products in all projects when economically feasible⁴¹. When planning and executing public works projects, WTA will consider the use of biochar⁴².
3. **Electronic Products Meeting Environmental Performance Standards.** WTA prefers electronics that reduce or eliminate hazardous materials⁴³.
4. **Energy Conservation.** WTA complies with applicable standards and policies of State energy conservation plans issued under the Energy Policy and Conservation Act, as amended⁴⁴.

Solicitation Protests

Any party with an interest in the award of a Formal Solicitation may file a protest that WTA staff did not follow this Manual or other procurement policies and procedures. Appendix 4 outlines WTA solicitation protest procedures which are incorporated into every Formal Solicitation. WTA notifies FTA Region 10 of all protests and appeals on its federal contracts over \$500,000. Similarly, WTA notifies FTA Region 10 counsel of all significant current or prospective legal matters⁴⁵.

Splitting Purchases

WTA Staff will not split purchases to stay below Procurement Thresholds⁴⁶. This includes purchasing the same or related items on different days from the same supplier to avoid a transaction limit. Staff should plan for all purchases appropriately and try to avoid duplicate purchases.

Arbitrary Procurement Actions

Actions based on or determined by individual preference or convenience rather than by necessity or the essential nature of the good or service and without reasonable support or documentation⁴⁷ are prohibited.

³⁹ 2 CFR 200.322, FTA C4220.1F, Ch. III, 3.a, FTA C4220.1F, Ch. IV, 2.c (3) & (4), POL-106-04

⁴⁰ 40 CFR 247, RCW 39.26.255

⁴¹ RCW 43.19A.120 and .160

⁴² RCW 43.19A.140

⁴³ RCW 39.26.265

⁴⁴ 42 U.S.C. 6321, FTA C4220.1F, Ch. IV, 2.c(4)

⁴⁵ FTA Master Agreement, Section 16.w

⁴⁶ FTA C4220.1F Ch VI, 3.b.(2)(b)

⁴⁷ 2 CFR 200.319(b)(7), FTA C4220. 1F, Ch. VI, 2.a(4)(j)



Collusion

Supporting or accepting noncompetitive pricing practices between firms or affiliated companies⁴⁸ restricts open competition and is prohibited. For example, accepting identical bid prices for the same products by the same group of firms, or ignoring an unnatural pattern of awards that cumulatively distributes work among a fixed group of vendors.

Term

Third party contracts other than Rolling Stock are not restricted to maximum periods of performance⁴⁹. Contract terms for Rolling Stock and components of Rolling Stock are limited to five (5) years including renewal Options⁵⁰. In all cases, the duration of WTA's contracts must be reasonable for the required service. Contracts with no end date are prohibited.

Responsible Vendors

WTA awards contracts to contractors possessing the ability, willingness, and integrity to successfully perform the requirements⁵¹. Staff considers a proposer's integrity, compliance with public policy, record of past performance, and financial and technical resources⁵². The Procurement Department reviews all potential vendors against minimum qualifications, established for each procurement.

Depending on the procurement, Supplemental Proposer/Bidder Criteria may be established⁵³. This list includes specific requirements a vendor must have to submit a proposal or bid. The Procurement Department may waive one or more supplemental criteria as minor or irregular, depending on the procurement.

Cost Structure

WTA states in all procurements the type of contract it intends to award. As a rule, WTA will limit its contracts to the following types:

1. **Firm Fixed Price**. WTA uses firm fixed price contracts in acquiring commercial items or other supplies or services whenever possible. Either the Scope of Work is well defined or WTA desires to transfer the risk to the contractor.
2. **Fixed-Price with Economic Price Adjustment**. WTA will ensure that economic price adjustments are included, when appropriate, in long-term fixed price contracts and can be made upwards or downwards.
3. **Fixed-Price Incentive**. WTA uses incentive contracts when cost uncertainties exist and there is potential for performance and cost efficiencies.
4. **Time and Materials with Not to Exceed Pricing**. WTA will use time and material contracts only when a firm fixed price is determined to be unsuitable. When using time and material contracts, WTA will include a not to exceed amount. Time and material contracts will be detailed showing:

⁴⁸ 2 CFR 200.319(b)(3)

⁴⁹ 49 USC 5325(e)(1), FTA Dear Colleague Letter #C-02-08

⁵⁰ 49 USC 5325(e)(1)(A), FTA C4220.1F, Ch. IV, 2.e(10)

⁵¹ 2 CFR 200.318(h), 49 USC 5325(j), FTA C4220.1F, Ch. VI, 8.b

⁵² 2 CFR 200.318 (h)

⁵³ RCW 39.04.350(3)



PURCHASING & CONTRACT ADMINISTRATION POLICY

- a. Contractors direct labor hours charged at fixed hourly rates reflecting wages, general and administrative expenses, and profit; and
- b. Copies of all related invoices or receipts with the actual cost of materials.
5. Cost Plus Fixed Fee. WTA will reimburse the contractor for reasonable, allocable, and allowable costs, plus a fixed fee (profit) amount. The fixed fee may be adjusted according to changes in the contract work.
6. Unit Price. WTA uses a Unit Price Contract for routine goods and services or when the exact quantity cannot be determined.

WTA will not use percentage of cost contracts⁵⁴. These include:

1. Cost plus a percentage of cost; or
2. Percentage of construction cost

4 – 103 Acquisition Plan

Project Managers and the Procurement Department will complete an Acquisition Plan as part of each non-rolling stock Federal project or where more than one (1) service is required to accomplish a finished project. Procurement will work with Project Managers to initiate the Acquisition Plan before purchases are made. The Acquisition Plan will be reviewed and updated by the project team regularly throughout the procurement process.

Procurements related to applicable projects will not begin without a substantially complete and reviewed Acquisition Plan on file with the Procurement Department.

4 – 104 Independent Cost Estimate (ICE)

Staff prepares an independent estimate of anticipated purchase costs before receiving bids or proposals:

- For any construction or public work regardless of value⁵⁵.
- Procurements over the formal procurement threshold⁵⁶.
- All contract modifications⁵⁷.
- All Federally funded purchases⁵⁸.

The level of detail required depends on the procurement. Staff must provide support for the estimated costs. Staff may submit copies of their budget request or a copy of their approved Capital Improvement Plan (CIP) application which includes a life-cycle analysis⁵⁹, with the support for the estimated cost. A budget number is not acceptable without documentation behind it, nor is an estimate based on an employee's "professional experience." The ICE will serve as the foundation for the price or cost analysis and determination of fair and reasonable pricing.

⁵⁴ 2 CFR 200.324(d)

⁵⁵ RCW 39.04.020

⁵⁶ 2 CFR 200.324(a)

⁵⁷ 2 CFR 200.324(a), FTA C4220.1F, Ch.VI, 6,

⁵⁸ 2 CFR 200.323(b), FTA C4220.1F, Ch.VI, 6

⁵⁹ POL-502-01



4 - 105 Fair and Reasonable Documentation

Fair and reasonable documentation is required for all new purchases and contract changes regardless of value⁶⁰.

Purchases made from a competitively sourced contract are exempt provided there is documentation that the awarded contracts price(s) is fair and reasonable.

4 - 106 Price Analysis

WTA will conduct an analysis of received proposed prices to determine contract price reasonableness⁶¹. At a minimum, the analysis determines price fairness, how it was reached, and compared against the ICE. The price analysis should reflect what the general marketplace is paying for the same goods and services in similar quantities.

When appropriate, WTA may use the following normalizing formula to assign points as part of the Price Analysis:

(Lowest price proposed ÷ price being evaluated) x total points possible = awarded points

4 - 107 Cost Analysis

WTA conducts a Cost Analysis when there is no price competition including A&E contracts, Sole Source procurements, and Change Orders to existing contracts⁶². Profit is considered separately and negotiated based on the risk to the contractor⁶³. Locally funded public works costs will be allowable as outlined by the most currently published WSDOT Standard Specifications⁶⁴. All other costs will be allowable by Federal Cost Principals in FAR Part 31.2⁶⁵. Staff will use the project ICE as a starting point for establishing price fairness.

A Cost Analysis is not required when price reasonableness can be justified based on a catalog or market price of a similar good or service, if the price is set by law or regulation, or the cost of the change is outlined in the contract documents⁶⁶.

4 - 108 Competitive Exemptions

Competition is waived under limited circumstances; however, all other applicable policies still apply. WTA has found that prices in these industries are similar among competing vendors, or the industry is regulated. Staff distribute these purchases equitably among suppliers where possible and use the Direct Payment procedure where applicable.

⁶⁰ 2 CFR 324(a), FTA C4220.1F Ch. VI, 3.a(2)(c)

⁶¹ 2 CFR 200.324(a), FTA C4220.1F, Ch.VI, 6b

⁶² 2 CFR 200.324(a), FTA C4220.1F, Ch.VI, 6a

⁶³ 2 CFR 200.324(b), FTA C4220.1F, Ch.VI, 6.a(2),

⁶⁴ <https://www.wsdot.wa.gov/Publications/Manuals/M41-10.htm>

⁶⁵ 2 CFR 200 Subpart E

⁶⁶ FTA C4220.1F, Ch. VI, 6.a



PURCHASING & CONTRACT ADMINISTRATION POLICY

- Advertisements for employment opportunities, purchasing and contracting solicitations, sale of surplus items, public announcements, and outreach, etc. (all media). This exception does not include printing, design, or graphics services.
- Audit services required by WA State Auditor or other government agency.
- Employment applicant testing.
- Banking services including credit card processing, loan transactions, and related services.
- Bulk advertising mailing lists.
- Business & other related operating insurance including insurance deductibles and/or retained losses.
- Emergency contracts outlined in 4 -109.
- Employee benefit programs.
- Fees paid to governmental cooperative purchasing organizations.
- Freight bills, express shipping, common carriers, delivery services, postage, and related services.
- Legal costs including expert witnesses for the purpose of litigation, arbitration fees, litigation costs, witness fees, court costs, and related expenses (but not the fees of outside legal counsel), settlements of disputed matters, and judgment claims against WTA when endorsed by General Legal Counsel.
- Licenses, permits, and fees from governmental or regulatory entities.
- Moving expenses for eligible personnel.
- Payments for annual maintenance, licensing, service, or support agreements and hardware and software upgrades for existing computer programs, and telecommunication-related services.
- Professional association dues, fees, licenses, and certifications.
- Publications, books, and subscriptions.
- Real estate purchase and sale transactions including title company services, and escrow (surveys, appraisals, environmental assessments, and financing analyses are not exempt from Competition).
- Sub-recipient or sub-grantee agreements and related Change Orders.
- Trainers or Training **only when** staff provide documentation the individual(s) are qualified in their subject matter, the price is fair and reasonable, and there is at least one (1) written recommendation from another (non-WTA) client.
- Travel expenses for WTA employees, employment applicants, program participants, volunteers, or the BOD necessary to conduct WTA business. Expenses may include transportation, accommodation, and any registration fees. Travel must be pre-approved, and expenses allowed by WTA's Travel & Expense Reimbursement Manual. Any travel relating to a Federally funded project is required to follow Fly America guidelines⁶⁷.
- Utility bills (Water, Sewer, Electricity, Gas, and other regulated utilities).
- Vending machines for WTA employee only use.

⁶⁷ 49 USC 40118

4 – 109 Terms and Conditions Review

Purchases over the micro-purchase limit that require users to agree to Terms and Conditions require Procurement and/or Legal review when Terms and Conditions require purchasing staff to

1. Attest that they have the authority to bind WTA to terms
2. Discuss liability limitations
3. Warranty
4. Confidentiality
5. Indemnification.

4 – 109 Emergency Purchases

Only the GM, elected or authorized City, County, State or Federal official, or Designee, is authorized to declare an emergency⁶⁸. Upon receipt of written declaration of emergency, WTA may suspend competitive procurement requirements⁶⁹ until the authorized person or agency that originally declared the Emergency has determined the Emergency no longer exists.

Contracts awarded under an emergency declaration with a total value of less than the General Managers authority require notification at the next available Board meeting.

Contracts awarded under an emergency declaration with a total value over the General Managers authority require ratification at the next available Board meeting.

4 – 110 Sole Source

Sole Source purchases require GM approval prior to purchase when Staff demonstrate:

1. The good or service is available from only one (1) responsible source AND no other good or service available will satisfy WTA requirements;⁷⁰
OR
2. A contract change is outside of the original scope.

A completed and GM approved Sole Source Justification Form and all supporting documentation is required prior to purchase.

WTA will post all Sole Source agreements on its website at least once (1) per year.

4 – 111 Single Source

Single Source purchases will be documented as if they were sole source (See 4-110). The Procurement Department will review specifications to ensure they were not overly restrictive causing the purchase to qualify as a Single Source.

⁶⁸ RCW 39.04.280(2)(a), POL- 201-04

⁶⁹ 2CFR 200.320(c)(3), FTA C4220.1F, Ch VI, 4.i.(c), RCW 39.04.280 (b)

⁷⁰ FTA C4220.1F, Ch. VI, 3.i(1)(b)



4 - 112 Technology Purchases

Technology purchases, including professional services, software as a service (SaaS), hosted solutions, software, and computer hardware, must be endorsed by the IT Director, or designee, prior to purchase. IT will review the purchase for compatibility with existing WTA systems, data security, cyber security, and supportability.

4 - 113 Cooperatives, Government Purchasing Schedules, & Piggyback Contracts

WTA will utilize existing cooperative contracts, state purchasing schedules, or piggyback from another agency's contract whenever reasonable and authorized by law⁷¹. An ICE is required where applicable (See 4-103). Documentation of fair & reasonable pricing is required prior to using the contract or schedule. (See 4-105).

The Procurement Department reviews all potential cooperative, purchasing schedules, and Piggyback contracts before use to ensure it follows WTA's procurement guidelines and meets FTA regulations (when applicable). The Procurement Department will confirm with FTA Region 10 that cooperative contracts can be used when Federal funds are involved.

WTA executes interlocal agreements with originating agencies before Piggybacking existing government contracts. WTA will post all interlocal agreements on its website at least once (1) per year⁷².

A separate contract between the vendor and WTA may be required, depending on the goods or services required.

4 - 114 Small Works Rosters

WTA uses the Small Works, Consultant, and Vendor Rosters⁷³ through the Municipal Resources Service Center (MRSC). WTA procedures will follow appropriate state law for Small and Limited Public Works.

4 - 115 Equal Employment Opportunity

WTA has adopted an Equal Employment Opportunity (EEO) Policy which applies to hiring and promotion practices, as well as procurement and contracting activities⁷⁴. All formal solicitations issued by WTA require the Bidder/Proposer to certify that it:

- Does not discriminate against any employee or applicant for employment, due to race, religion, pregnancy, medical condition, ancestry, marital status, gender, gender identity or

⁷¹ 2 CFR 200.318(e), RCW 39.34

⁷² RCW 39.34.030(5)(b)

⁷³ RCW 39.04.155, WTA Resolution No 273.15

⁷⁴ Executive Order 11246, 2 CFR Appendix II (c), 41 CFR 60



PURCHASING & CONTRACT ADMINISTRATION POLICY

expression, sensory/physical/mental disability, sexual orientation, veteran status, age, creed, color, national origin or any other protected class under the law.

- Complies with all Executive Orders and federal, state, and local laws regarding fair employment practices and non-discrimination in employment.
- Demonstrates equal opportunity in employment practices.

4 - 116 Veteran's Employment

WTA ensures that contractors working on public works and related projects give a hiring preference to veterans who have requisite skills and abilities to perform the construction work required under the contract⁷⁵.

4 - 117 Supplier Diversity

Whenever possible, staff will consider small, diverse, and veteran-owned suppliers when purchasing goods and services⁷⁶.

WTA takes necessary and reasonable steps ensuring that Disadvantaged Business Enterprises (DBE's) are given the maximum opportunity to participate in the performance of federally financed contracts⁷⁷. WTA files its DBE goals every three (3) years with FTA by August 1st. WTA reports DBE participation on its federal contracts semi-annually by June 1 and December 1. See WTA DBE Program for more information.

4 - 118 Prequalification System

WTA uses prequalification for goods or services so specific that open competition is a challenge⁷⁸. Proposers must demonstrate their ability to provide the good or service exactly as specified before participating in a solicitation. Only proposers demonstrating adherence to required specifications will be asked to propose or bid.

1. **Lists.** WTA ensures that any prequalification list it uses is current.
2. **Sources.** WTA ensures that any prequalification list it uses includes enough qualified sources to provide maximum full and open Competition.
3. **Qualification Periods.** WTA permits potential bidders or offerors to qualify during the solicitation period (from the issuance of the solicitation to its closing date). WTA is not required to hold a particular solicitation open to accommodate a potential proposer. WTA will not expedite or shorten prequalification evaluations of proposers, offerors, or property presented for review during the solicitation period.

Prequalification is not a review of technical qualifications as part of a two-step, qualifications-based procurement⁷⁹ common with Design-Build procurements.

⁷⁵ FTA Master Agreement 16(u), FTA C4220.1F, Ch. IV, 2.c(1)(C), RCW 39.04.162

⁷⁶ RCW 39.19

⁷⁷ 2 CFR 200.321, 49 CFR 26

⁷⁸ 2 CFR 200.319(e), FTA C4220.1F, Ch. VI, 1.c,

⁷⁹ FTA C4220.1F, Ch. VI, 1.c(3)

4 - 119 Lease vs Purchase Alternatives

WTA may use FTA capital assistance to finance leasing costs provided leasing is more cost effective than full ownership. Staff will compare the total cost of leasing to the total cost of ownership. Comparison costs will be reasonable, based on realistic current market conditions, and the expected useful service life of the asset⁸⁰.

4 - 120 Pre-Payments

Unless one of the following exceptions exist, WTA will not make payments to a vendor before that vendor has performed work or provided the required good(s) or service(s)⁸¹.

FTA must provide written concurrence when FTA funds are involved. Exceptions are limited to:

- Construction mobilization costs.
- Conference and convention registrations.
- Contractual breach.
- Hotel reservations.
- Insurance premiums.
- Public utility connections and services.
- Rent for personal and real property.
- Software and other licenses.
- Subscriptions to publications.
- Transportation.
- Tuition.

Approval from the Finance Director or Designee is required for prepayments not covered by the exceptions above.

4 - 121 Invoice and Progress Payment Approval

A purchase order is required for invoice and progress payment processing.

Invoices require at least two (2) signatures before payment. The first signature is from an employee authorized by the Approval Authority Matrix who can verify the good(s) or service(s) are received and acceptable. The other signature must be from a supervisor with signing authority verifying work completion or goods receipt and the budget availability for the expense. Staff approving invoices for payment are accepting responsibility for:

1. Ensuring work is completed and accepted.
2. Services/goods/equipment are received and accepted.
3. Using the correct general ledger account number.
4. Verifying the amount billed is correct, including all taxes and fees, and
5. Confirming the purchase order and budget has funds available to pay the invoice, if applicable.

⁸⁰ FTA C 4220.1F Ch. IV, 1e, FTA C 5010.1E, Ch. IV, 4.L

⁸¹ FTA C4220.1F, Ch. IV, 2.b(5)(b), RCW 42.24.080 and .110



PURCHASING & CONTRACT ADMINISTRATION POLICY

Progress payment requests must be submitted on WTA's Progress Payment Application Form. Progress payments will:

1. Only be approved for work that is completed (see 4-120).
2. Reviewed and endorsed by the Project Manager and Division Director or Designees.
3. Endorsed by WTA's Procurement Department prior to check issue.
4. Approved by the GM, and
5. Supported by a pre-existing invoice.

4 - 122 Purchasing Credit Cards (P-Cards)

WTA may issue purchasing credit cards (PCards) to employees who regularly procure small dollar items in their work. PCards are intended as a **payment mechanism** only. Procurement policy and procedures are required for their use.

PCards may not be used for Grant funded purchases, or public works without pre-Approval from the Accounting Manager or designee. Only the Procurement Department or authorized Warehouse staff may use PCards for purchases where an RTA work order is required. Some exceptions, like construction permits, rents, preventative maintenance (non-public works), or vehicle licensing, may apply and require authorization from the Warehouse Manager or designee.

Unless otherwise approved by the Program Administrator and Division Director, default limits will be:

- Single transaction limit: \$5,000.
- Daily Dollar Limit: \$10,000.
- The maximum monthly Dollar Limit/Credit Limit: \$15,000.
- Maximum PCard transactions per day: five (5).
- Maximum PCard transactions per month: fifteen (15).

Documentation is required for each transaction, and must provide a minimum level of detail showing:

- Description of the purchase:
 - detail what is being purchased
 - explain discrepancies between the receipt and the charge
 - justify the business reason for the purchase
- Purchase price, including a breakdown of any sales tax paid.
- Any pre-authorizations, including signed travel authorization forms, where applicable

By approving a transaction, PCard holders and approvers are accepting responsibility for

1. Ensuring work is completed and accepted.
2. Confirming service/goods/equipment is received and accepted.
3. Using the correct general ledger account number.
4. Verifying the amount billed is correct, including all taxes and fees.
5. Confirming the charge matches the receipt; and
6. Budgeted funds are available to cover the expense.

PCard holders will approve their transactions within three (3) days after the cycle closes or the next business day. Approvers will review and approve each charge individually before the 10th of the month following the cycle. Procurement may approve longer review time on a case-by-case basis.

4 - 123 Purchase Order

Public Works related projects and purchases over the micro-purchase level require a purchase order (PO). PO approvals are outlined in Appendix 2. Purchases that require staff to acknowledge terms and conditions of service require procurement review and endorsement before purchase.

Purchase Orders and contracts for all public works projects, regardless of value, will be made available for public review⁸².

4 - 124 Blanket Purchase Orders

Staff request Blanket Purchase Orders (BPO) for Indefinite Delivery/Indefinite Quantity (IDIQ) purchases throughout a single calendar year.

Individual purchases from non-contracted vendors will follow procurement requirements in Procurement Thresholds (Appendix 2).

Staff will not use other means of procurement (e.g., PCard, Direct Payment) if a BPO is in place without Procurement or the Accounting Manager's approval.

4 - 125 Purchase Order Changes

Change Orders require appropriate endorsements authorized in the Approval Authority Matrix or the Project Approval Authority Form. All necessary approvals and documentation must be completed before work is performed unless the work qualifies as a Critical Directive or Field Authority Change (see 5-107).

The Project Manager or purchase initiator ensures the Change Order request is reasonable and within the approved budget or contract scope before initiating the change. Cardinal Changes are not authorized⁸³ and must be justified as a Sole Source award or competitively sourced.

Purchase Order change requests shall be made in the Procurement and Contract Management system and include a price quote. Increases to a BPO do not require a price quote unless it is for a specific purchase.

4 - 126 Contractor Insurance

Contractors are required to furnish proof of insurance coverage prior to beginning work when:

- The work occurs or services are provided on WTA leased or owned property.

⁸² RCW 39.04.200

⁸³ FTA C4220.1F, Ch. V, 7.b(2)



PURCHASING & CONTRACT ADMINISTRATION POLICY

- The contractor is a consultant providing advice.
- When the work product will involve the public.
- The contract terms require the contractor to carry insurance in association with the goods or services.

The Procurement Department, in consultation with Legal Counsel, WTA's Insurance carrier, and the Finance Director, determines appropriate coverage levels based on work scope and WTA's potential risk, as well as any exceptions to the insurance requirement.

4 – 127 Prevailing Wage & Davis Bacon

When applicable, WTA follows Washington State law in the use of Prevailing Wages⁸⁴ in its contracts. For Federally funded projects, WTA will follow guidelines provided in the Davis Bacon and Related Acts⁸⁵. When there is conflict between WA State Prevailing Wage Law and Federal Davis Bacon regulations, the more restrictive will apply.

WTA will withhold up to 5% of the contract value as retainage for Prevailing Wage projects over \$50,000 and not federally funded⁸⁶. Retainage will pay any third-party claims against the contractor as well as any outstanding taxes or penalties owed by the contractor⁸⁷. Retainage will be released after Procurement receives certifications from Washington State Department of Revenue, Employment Security, and Labor and Industries.

Procurement may authorize the contractor to issue a check or bond for 100% of the required retainage. The check will be deposited by WTA and recorded as a liability.

Retainage will not be withheld from federally funded transportation projects⁸⁸.

4 – 128 Bonds

Where applicable, WTA will require:⁸⁹

1. Bid bond.
2. Payment Bond,
3. Performance Bond.

Bond amounts will not be excessive⁹⁰.

Bid bonds will be for 5% of the contractors bid amount and released at the execution of a contract.

⁸⁴ RCW 39.12, RCW 60.28.011

⁸⁵ 40 USC 3141, 29 CFR Parts 1, 3, 5, 6 and 7

⁸⁶ RCW 39.04.155(1)

⁸⁷ RCW 60.28.011

⁸⁸ RCW 60.28.011(1)(b)

⁸⁹ 2 CFR 200.304 FTA C4220.1F, Ch. IV, 2.i(1), RCW 39.08.010

⁹⁰ 2 CFR 200.319(b)(2)



PURCHASING & CONTRACT ADMINISTRATION POLICY

Separate payment and performance bonds will be required on projects over \$50,000. The Finance Director may authorize 10% retainage in lieu of bonds on projects under \$150,000.

The Finance Director may allow a contractor to issue a check in lieu of a bond. The check will be deposited by WTA and recorded as a liability. Bonds, checks, or retainage will be released when procurement receives all necessary releases from the Department of Revenue, Employment Securities Department and Department of Labor and Industries.

4 - 129 Disposal of Surplus Property

WTA disposes of surplus property when:

- Property is not needed currently or in the foreseeable future.
- Asset(s) no longer meets agency standards.
- Property is obsolete.
- The cost to maintain or refurbish exceeds replacement cost.
- It does not comply with health or safety standards.

All WTA logos are removed prior to disposal. If any logo cannot be removed or obscured, the property item is destroyed.

Purchase and Sale documentation will address WTA liability and warranty provisions.

The disposal method is based on current Fair Market Value, location, transportation requirements, cost to dispose, regulations, and environmental impact. Staff coordinates with the Procurement Department on the appropriate disposal method. Disposal approvals are outlined in the Approval Authority Matrix (Appendix 1).

Real property is disposed according to Washington State and FTA regulations. FTA must grant final approval of any real estate sale.

The BOD approves disposal of:

- All Rolling Stock.
- All Real Estate.
- Surplus property exceeding \$5,000 in current Fair Market Value.

The sale of property valued over \$50,000 requires a public hearing.

WTA employees may not purchase surplus property directly from WTA.

Disposal documentation includes:

- Reason for disposal
- Fair Market Value determination
- Disposal method
- Approvals
- Original purchase details (buyer, purchase price, PO number date, method)



PURCHASING & CONTRACT ADMINISTRATION POLICY

4 - 130 Job Order Contracting

WTA will use Job Order Contracting⁹¹ when appropriate.

⁹¹ RCW 39.10.420

Part 5 Contract Management Policy

These policy statements provide guidance on managing contractual obligations of WTA. All contracts must be authorized at the levels identified by the Approval Authority Matrix (Appendix 1). This policy must be read in combination with the other policies found in this Manual.

The contract file will be maintained by the Procurement Department. A Contract File Checklist is used to identify the required applicable minimum contract file documentation, which shall include those items set out in 3-109.

5 - 101 Contract Formation

All contracts include provisions defining a sound and complete agreement. Compliance with Federal laws, regulations or a specific grant may require the addition of specific provisions⁹². Procurement Department staff review required FTA clauses the Master Grant Agreement and any competitively awarded grant requirements ensuring proper provisions are included.

At a minimum, all contracts shall include the following:

1. Administrative provisions
2. Financial provisions
3. Risk allocation provisions including appropriate liquidated damages, hold harmless and indemnity obligations, and insurance requirements
4. Original WTA Scope of Work or contractor proposed Statement of Work (including deliverables)
5. Contract term, termination, and dispute resolution provisions

5 - 102 Contract Structure

The Procurement Department will use standard forms of contracts approved by Legal Counsel.

Written contracts shall be used in all cases, including for multi-year agreements and when roles and responsibilities must be documented.

WTA may issue contracts for goods and services structured as follows. This list is not exclusive and may include additional contracts when applicable:

- Design-Bid-Build⁹³.
- Design - Build / Construction Manager at Risk (CMAR).⁹⁴
- Digital Click Through Purchase Agreements.
- Indefinite Delivery, Indefinite Quantity (IDIQ).
- Job Order Contracting.⁹⁵

⁹² 2 CFR 200, Appendix II

⁹³ RCW 39.10.300 - 330

⁹⁴ RCW 39.10.340 -410

⁹⁵ RCW 39.10.420 -460



PURCHASING & CONTRACT ADMINISTRATION POLICY

- Inter-Local Agreements.⁹⁶
- Memo of Understanding.
- Unit Priced Contracts.
- Purchase and Sale Agreements.
- Revenue Contracts⁹⁷.
- Leases.
- Grant Agreements.

5 – 103 Legal and Risk Management Review

All contracts must be reviewed by the Procurement Department and Legal Counsel prior to GM approval. The following contracts do not require Legal Counsel review:

- Contracts written using a WTA template pre-approved by Legal Counsel, provided there are no changes made to the terms and conditions.
- Total value of the contract is less than the General Manager’s authority (Appendix 1).
- The contract does not involve unique risks, including risk of harm to individuals or property.

The Procurement Department and Legal Counsel will ensure contract provisions mitigate the risks identified in any Acquisition Plan and CAP. Review will include but not be limited to:

- Health, safety or financial risk to the public, WTA staff or property.
- Audit or funding compliance risk.
- Performance risk: delivery schedule, implementation and acceptance requirements, dispute, breach or termination potential and sub-contractor work.
- Liability requirements: hold harmless, indemnification, subrogation, venue, and warranty provisions.
- Payment risk: pre-payment requirements, milestone payments, and retainage requirements.

5 - 104 Digital Click Through Agreements

Only WTA’s General Manager, or Designee may authorize these types of contracts when the total one (1) year cost of the agreement will be over the Micro-Purchase limit. For contracts that “auto-renew,” staff will use a total of three (3) years to calculate the total cost of the contract. Procurement may review the terms and conditions after the procurement.

5 – 105 Contract Administration Plan

For multi-year contracts and contracts over the formal procurement threshold, Staff in partnership with the Procurement Department, will complete a Contract Administration Plan (CAP) as part of the award process. The CAP will be used to complete any grant applications and status reports required by the granting agency.

⁹⁶ RCW 39.34

⁹⁷ RCW 36.57A.080

The Procurement Department will schedule a kick-off meeting with project staff at the beginning of the contract to review all elements of the CAP.

The CAP will be reviewed and updated periodically throughout the project life by project staff and the Procurement Department.

5 – 106 Contractor Performance Monitoring

Contracts will be performance based where applicable. WTA will identify deliverables, incorporate performance measures, and connect measurable benchmarks to contract payments⁹⁸. Staff use contractor performance evaluations when considering contract extensions, price adjustments, and evaluations of any submissions to WTA solicitation requests. Evaluations become a permanent part of the contract file and are administered by the Procurement Department. Contracts may include incentives ensuring WTA receives the full value of the purchase and consequences for poor contractor performance.

5 – 107 Contract Changes

Change Orders require appropriate endorsements authorized in the Approval Authority Matrix or the Project Approval Authority Form. All necessary approvals and documentation must be completed before work is performed.

The Project Manager or purchase initiator ensures a Change Order request is reasonable and within the approved budget or specific contract language before authorizing work. A written determination from the Project Manager detailing why any price increase is fair and reasonable is required as part of the change order. Cardinal Changes are considered Sole Source awards and must be justified, or competitively procured as a separate contract.⁹⁹

Changes requiring an equitable adjustment to the contractor, changing the Scope of Work, or modifying contract terms must be executed by a bilateral contract modification¹⁰⁰. Only WTA's GM, or Designee, is authorized to sign contract changes (Appendix 1). All changes must be documented and retained in the master contract file.

Changes to Federally funded contracts require an Independent Cost Estimate and a Cost Analysis¹⁰¹.

Contract extensions for time or term renewal require cost escalation review or extended overhead costs when applicable.

⁹⁸ 2 CFR 200.301, RCW 39.26.180

⁹⁹ FTA C4220.1F, Ch. VI, 3.i(1)(b), FTA C4220.1F, Ch. V, 7.b(2)

¹⁰⁰ FAR Part 43.103(a)

¹⁰¹ FTA C4220.1F, Ch. VI, 6



Administrative changes authorized by contract clauses, or necessary to issue a termination notice are executed unilateral contract modification¹⁰² and do not require a Cost Analysis or contractor quote.

Critical Directives and Field Changes

Staff with the appropriate approval authority may approve a Critical Directive or Field Change (See Definitions). Notification to the GM and the Procurement Department is required when issued. Completed change documentation as outlined above is required within ten (10) working days after issued directive.

5 – 108 Contract Options

WTA contracts may include Options to ensure the future availability of property or services. Staff justify any necessary Options as part of the procurement process.

WTA may also exercise Options held by another agency, provided the original agency followed their own procurement policies and procedures, terms and conditions are substantially similar to the original contract, the price is better than market price, or the Option will provide cost efficiencies for the agency (See 4-113).

5 – 109 Contract Disputes and Claims

Claims and disputes against WTA

WTA reviews contractor requests for administrative review of a Dispute to WTA within four (4) years of the disputed action occurring¹⁰³.

Staff resolves disputes within their authority whenever possible. The Procurement Department serves as the next level of appeal and resolution, followed by the Finance Director and finally, the GM. Contractors may appeal decisions at each level of escalation starting with mediation with the final avenue being seeking relief in the Superior Court for the State of Washington, Whatcom County. Contract documents will detail Dispute and Claim procedures.

A written determination at each appeal level will be provided within the timeframe dictated by the contract documents.

Claims and disputes against the Contractor

All potential Claims and disputes by WTA against a contractor relating to a contract shall be reviewed by the Procurement Department, Legal Counsel, and the GM prior to the making of an actual Claim¹⁰⁴. Claims and disputes against a contractor will be in writing and provide:

¹⁰² FAR Part 43.103(b), RCW 62A.2-725

¹⁰³ RCW 62A.2-725(1)

¹⁰⁴ 41 USC 605(a)



1. Detailed statement of the legal and factual grounds of the Claim or dispute
2. Copies of all relevant documents; and
3. The form of relief requested.

The Procurement Department and Legal Counsel will review all the information and the contract requirements. After discussing with the Project Manager, Division Director and GM, the GM will determine an appropriate course of action up to an including debarment.

Settlements

The Procurement Department, the Project Manager, division director, and GM will settle contract Claims and disputes together to avoid unnecessary litigation and ensure fair treatment of the contractor. Settlements over the GM's authority require BOD approval.

The Procurement Department documents all disputes regardless of value or substance.

WTA will notify FTA of any major dispute, breach, default, or litigation on FTA funded projects. FTA will review and concur any proposed Claim settlement before Federal funds are expended.

Termination

WTA is not required to terminate a contract even though the circumstances permit termination and may determine that it is in the agency's best interest to pursue an alternate resolution.

Prior to termination, WTA may provide the contractor with an opportunity to cure a breach. In such case, a termination will not occur unless the contractor has failed to timely cure the breach.

Authority to Debar or Suspend

The Finance Director, after consultation with the GM, the Procurement Department, Project Manager, and Legal Counsel, shall have authority to debar or suspend a person or firm for cause from consideration for award or participation in contracts with WTA.

5 - 110 Digital Signatures

All WTA contracts, shall be in writing and signed only by the GM or Designee. The GM may authorize the use of Digital Signatures instead of original (wet) signatures unless an original signature is required by law or separate policy¹⁰⁵. The use of Digital Signatures should not be required to participate in WTA contracts if contractor participation would otherwise be restricted.

Digital Click Through Agreements can be agreed to by the Division Director or designee when the total contract amount, with all potential option years, is within their approval authority outlined in Appendix 1.

¹⁰⁵ RCW 19.360.020

5 – 111 Contract Terms, Conditions and Certifications

All purchases will have appropriate Federal and State certifications and contract terms and conditions included¹⁰⁶. Contract terms will ensure contract performance and state and Federal statute compliance.

Once all contract terms, including all extension options, have been fully exercised or are not renewed, WTA may not continue to use the contract or issue an extension after the expiration date. Only the General Manager or designee may approve a deviation.

When the contract is funded through State or Federal grant money, WTA additionally includes all provisions and certifications required by the funding source. This will include, but not be limited to terms required by 2 CFR 200, FTA C4220, and WTA's Master Grant Agreements.

Nothing in this policy prevents WTA from including additional terms & conditions in its contract to ensure contractor performance and reduce agency risk.

Liquidated damages¹⁰⁷

Contracts will incorporate liquidated damages for a breach by the contractor if WTA may expect to suffer damages due to:

1. Delayed contract completion; AND
2. The extent or amount of such damages are uncertain and would be difficult or impossible to determine.

The assessment for damages will be a specific rate per day for each day of overrun in contract time and not be so high as to be considered a penalty. The rate and measurement must be documented in procurement files and specified in solicitation and contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

5 – 112 Alternative Dispute Resolution

WTA will include Alternative Dispute Resolution clauses in its contracts, where appropriate.

5 – 113 Contract Closeout

A contract is completed when:

1. All goods/services have been received and accepted
2. All reports have been delivered and accepted
3. All administrative actions have been accomplished
4. All WTA-furnished equipment and material have been returned; and
5. Final payment has been made to contractor.

¹⁰⁶ 2 CFR 200.327, 2 CFR 200 Appendix II

¹⁰⁷ FTA C 4220.1F, Ch. IV, 2.b(6)(b)1

PURCHASING & CONTRACT ADMINISTRATION POLICY



Contract acceptance requirements will be outlined in the CAP. Procurement will use the Project Closeout Checklist to confirm contract completion and closeout procedures.

Part 6 Definitions

- **Actual Authority** – The specific right to perform and make decisions or prescribe rules governing the conduct of others as given to an Agent by a principal, particularly to bind WTA. For example, responsible charge notices are sent to delegate temporary responsibility to another.
- **Acquisition Plan** – WTA document outlining potential purchases, purchase methods, and risk in support of specific projects.
- **Agent** – Someone authorized by a superior (i.e., principal) to act for him or her.
- **Arbitrary** - Based on or determined by individual preference or convenience rather than by necessity or the intrinsic nature of something.
- **Apparent Authority** – When a superior (i.e., principal) allows or permits a person to function in a capacity that creates the illusion that the person is authorized to act as an authorized agent.
- **Approval Authority Matrix** – WTA policy outlining employee financial approval limits for purchases, contract, and invoices.
- **Biochar** - charcoal produced from plant matter and stored in the soil to remove carbon dioxide from the atmosphere.
- **Bilateral Contract Modification** - A contract modification that is signed by the contractor and the General Manager
- **Blanket Purchase Order (BPO)** – Method of making recurring purchases of a large variety of low value supplies with specific vendors.
- **Budget** - An estimate of revenue and expenses for a set time period.
- **Capital Improvement Plan (CIP)** – A short-range plan, usually four (4) to ten (10) years, which identifies capital projects and equipment purchases, the related costs, provides a planning schedule and identifies options for financing the plan.
- **Cardinal Change** - A major deviation from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. Adding additional properties to an existing scope would be considered a cardinal change. However, adding a section of property already part of the scope is not. (e.g., a contractor is hired to paint the outside of MOAB (Maintenance, Operations and Administrative Base), adding painting of the flagpole is not a cardinal change. However, adding any paint work to Lynden Station would be).
- **Change Order** - Work added to or deleted from the original contract Scope of Work. Change Order: Work added to or deleted from the original contract Scope of Work. A Change Order may or may not alter the original contract amount, completion date, or project outcome.
- **Claim** – Ask, call for, or demand for delivery or concession of something due as one's own or one's right.
- **Code of Federal Regulations (CFR)** - The codification of the general and permanent rules and regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States. In terms of this Manual, the pertinent CFRs (Code of Federal Regulations) are those issued by FTA in association with the use of Federal money.
- **Competition** – The effort of two or more parties acting independently to secure the business of a third party by offering the most favorable terms.



- **Construction Manager at Risk (CMAR)** - Construction delivery method for separate simultaneous contracts with a Prime Contractor and Architect. During design, the CMAR advises the owner and designer on constructability, schedule, sequencing, selection of components and materials, and other matters. When the design is completed, the CMAR becomes the “builder,” or general contractor, responsible or “at risk” for completing construction within the Guaranteed Maximum Price (GMP).
- **Contract** - A mutually binding legal relationship that obligates the seller to provide or perform actions within legal limits in exchange for payment from the buyer. A contract includes a purchase order, signed contract, acknowledgement of Terms and Conditions, an email exchange or verbal request requesting a product or service for a promise to pay.
- **Contract Administration Plan (CAP)** - A WTA internal document detailing how staff will manage the contract, roles and responsibilities, milestone dates, change management, and any other topic(s) necessary to show good stewardship of public funds.
- **Cost Analysis** - A review of all of the elements that make up a vendor’s price including direct and indirect costs and profit.
- **Critical Directive** - A change directed by the project manager or purchase initiator to correct a latent condition that would negatively impact WTA property or personnel if not immediately corrected and may result in a Declaration of Emergency as outlined in policy. Critical Directives can also include a directive to complete work during a Dispute or when the change is time sensitive. An example would be a water main to the sprinkler system breaking while doing contracted work.
- **Delegation of Authority** – The transfer of authority from principal to agent to accomplish a task (also, Designee).
- **Design-Bid-Build** – Construction delivery method for separate contracts with a Prime Contractor and Architect. The Prime Contractor is selected after the. Construction cost is negotiated when the design is completed.
- **Design-Build** – Construction delivery method that combines the architectural, engineering, and construction into a single contract.
- **Design Specification** - Precisely details the materials to be used and the way the work is to be performed.
- **Designee** – Agent given actual authority by one with authority at WTA to act on their behalf for a prescribed period of time (also, Delegation of Authority).
- **Digital Click Through Agreement** - An online agreement between WTA and a company that requires WTA to click a box or a button before they download content, make a purchase, or use a website. The box or button confirms that WTA agrees to an online contract with the company, and substitutes for the user's signature.
- **Digital Signature** – One type of electronic signature that contains a digital certificate, issued by a licensed certificate authority, behind the signature and offers authentication when sending a “signed” electronic document.
- **Direct Payment** - Transactions which, by their nature, are impractical or impossible to competitively bid because of market or other conditions and are thus exempt from competitive bidding requirements.
- **Disadvantaged Business Enterprises (DBE)** - Shall have that meaning provided under 49 CFR § 26.5 as now provided or hereinafter amended.



- **Dispute** - Occur when one or both parties to an agreement disagree about the terms and conditions or Scope of Work performance.
- **Emergency** - any circumstance which threatens the health or safety of employees, passengers or the public, such as severely inclement weather, fleet or facility disruptions, natural disasters, epidemics, or pandemics.
- **FTA C4220** - FTA circular that governs the purchasing and contracting process for transit agencies. Incorporates transit specific requirements of the CFR and FAR.
- **Fair Market Value** - The value of an item in the current marketplace, regardless of its initial purchase price or book value. Consider usefulness, condition, market demand, and ability to dispose. Fair Market Value can be determined by looking for the product in its current condition online, in catalogs, reviewing past sales by WTA of the same/similar item(s), or any other method staff deems appropriate.
- **Fair and Reasonable Price** - The price point for a good or service that is fair to both parties involved in the transaction. This amount is based upon the agreed-upon conditions, promised quality and timeliness of contract performance. At WTA, a fair and reasonable price is subject to both statutory and regulatory limitations.
- **Field Authority Change** - A change order directed by the Project Manager or purchase initiator in the field. This type of change order would have a negative financial or safety impact if not otherwise immediately authorized. For example, the need to run an extra 150' of phone line to keep the project going. To wait and redeploy a contractor would double the cost.
- **Formal Solicitation** - A formal request for bids for goods or services, which is to be obtained for purchases over established amount in Appendix 2 - Procurement Thresholds. or when there is significant competition in the marketplace.
- **Hold Harmless** - Contract clause requiring the contractor to assume liability for damages resulting from contractor action and absolves the government from responsibility or consequences.
- **Implied Authority** - Authority not specifically or expressly given but inferred by an Agent's actions.
- **Indemnify** - To exempt another party from penalties or liability due to the acting party's conduct. The acting party would pay any penalties or compensate any losses.
- **Indefinite Delivery/Indefinite Quantity (IDIQ)** - Contract where time of delivery is unspecified, and the amount required is undefined.
- **Independent Cost Estimate (ICE)** - An approximate cost of a purchase or project developed outside of and prior to the procurement. Independent in this instance means independent of the selected/desired vendor and prior to bids and proposals being received.
- **Individual Conflict of Interest** - Exists when any individual has a relationship, or engages in an activity that actually or is perceived to impair or adversely influence his or her judgment with respect to policies promoting the best interest of WTA, or that actually or is perceived to impair or adversely influence the performance of his or her duties at WTA
- **Inter-local Agreement** - A collaborative contract between public agencies aiming to provide more efficient, less costly public services.
- **Invitation to Bid (ITB, bid)** - An invitation for vendors to submit a bid for materials or services when the specific Scope of Work or material standards are known and provided (e.g., construction). ITB's are only awarded to the lowest price most responsible and responsive bidder.

- **Invoice** – A list of goods sent, or services provided, with a statement of the sum due i.e., a bill.
- **Job Order Contract (JOC)** – A contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW (Revised Code of Washington) 39.04.010.
- **Limited Public Works (LPW)** - Public works projects less than \$50,000. LPW projects are exempt from retainage and bonding requirements, however, Prevailing Wage must be paid.
- **Master Grant Agreement** – Yearly contract between WTA and FTA outlining requirements WTA must adhere to when expending Federal money.
- **Memo of Understanding (MOU)** – Contractual agreement defining common goals between agencies. Not intended for use when agencies exchange goods or services.
- **Micro-Purchase** - The acquisition of supplies or services, the total dollar amount of which does not exceed the Micro-Purchase threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1
- **Municipal Resource Services Center (MRSC) Rosters** - Paid roster services that provides a database of registered businesses for small public works construction projects, consulting opportunities, and contracting of goods or services.
- **Option** – Unilateral contract right allowing additional acquisition of additional equipment, supplies, or services than originally procured for a limited time. Options may also extend the term of the contract.
- **Performance Specification** - Describes the performance of a final product without describing HOW the contractor must design or assemble the item or perform the work.
- **Piggyback** – Using an existing contract to acquire the same goods or services at the same or lower price from another public entity contract.
- **Prevailing Wage** - The rate of hourly wage, usual benefits, and overtime paid within Whatcom County to most workers, laborers, or mechanics, in the same trade or occupation. If there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period other than an hour, the hourly wage for the purposes of this chapter shall be mathematically determined by the number of hours worked in such period of time.
- **Price Analysis** - Comparison of prices received from the marketplace for the same or similar items.
- **Procurement** - The development of specification development, value analysis, supplier market research, negotiation, purchasing, contract administration, inventory control, traffic, receiving, and stores, in relationship to the acquisition by WTA of goods or services.
- **Procurement Action** - Specific procurement steps in association with the purchase by WTA of goods or services, such as setting the calendar of events; producing the proposal/bid document; advertising the proposal or bid in legal paper of record; maintaining a list of proposal/bid holders; conducting a pre-proposal meeting; responding to all approved equals/clarifications received by the appropriate time and date; addenda issued straightforwardly to all proposal/bid holders; enforcing closing time and date; providing proctoring services to the project manager and evaluation committee; setting criteria weights; conducting interview process with top-scoring Proposers and evaluation committee; creating notes to file regarding the proposal/bid process; issuing award/non-award letters; and maintaining a written record of the procurement.



PURCHASING & CONTRACT ADMINISTRATION POLICY

- **Procurement Policy Exception** – Form documenting staff acknowledgement that procurement policy was not followed.
- **Project Approval Authority** – Temporary purchase, contract, and disbursement authority granted to specific WTA staff while managing a specific project.
- **Public Work** - All work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with chapter 39.12 RCW (Revised Code of Washington).
- **Purchasing** - The acquisition of required materials, services, and equipment.
- **Receipt** – A written record acknowledging the receiving of a good or service.
- **Request for Proposals (RFP, proposal)** - An invitation to vendors to propose on goods or services where the need to award a contract is based on factors including price, project execution, ongoing service, etc. Awards are based on the proposer who scores the highest points based on a list of criteria provided in the invitation.
- **Request for Qualifications (RFQ)** - An invitation to vendors to provide their specific qualifications and technical approach as they pertain to Architect and Engineering services. RFQ's are only used for services that pertain to real property. Awards are based on the proposer whose qualifications score the highest points based on a list of criteria provided in the invitation. Price is not allowed as an evaluation factor but is discussed during contract negotiation.
- **Revised Code of Washington (RCW)** - Laws adopted by the State of Washington due to legislation approved by the Governor.
- **Rolling Stock** – Transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, and vehicles used for support services.
- **Scope of Work** - A detailed, written description of the project's conceptual requirements in a Solicitation. Developed at the beginning of the procurement cycle and is a written description of needs and desired outcomes for the procurement and becomes the basis for any resulting solicitation. The Scope of Work helps to ensure that the product or service meets the stated outcome and establishes the parameters of the resulting contract. A Scope of Work must provide sufficient information for the supplier to:
 - a) Determine whether the solicitation aligns with their business, decide whether responding to the solicitation is profitable and worth the effort, and
 - b) Determine whether they can submit a responsive and responsible offer.
- **Single Source** – When a competitive solicitation only results in one (1) response.
- **Small Purchase Threshold** – The purchase of a good or service as defined in Appendix 2 – Procurement Thresholds.
- **Small Public Works Process (SPW)** - Public works projects defined by RCW 39.04.155. SPW projects require retainage, performance bonds, and prevailing wage.
- **Sole Source** – When required supplies or services are available from only one responsible source, and no other supplies or services will satisfy its requirements. Also, when an existing contractor makes a change(s) to its contract that is beyond the scope of the original contract
- **Statement of Work** - The response from the supplier/contractor outlining specifically how the supplier proposes to complete the work as outlined in the Scope of Work. It defines what will be done, how, by whom and cost factors. After a supplier has been selected, the Statement of Work becomes the basis for the contract and must provide sufficient information to meet WTA's needs



PURCHASING & CONTRACT ADMINISTRATION POLICY

and achieve successful outcomes, describe, and define the expectations of the parties, set price and payment schedules, mitigate, or avoid disputes.

- **Substantive Change** – A contract change that alters control, level or purpose of service, price, or operations. Also called a “material change.”
- **Unilateral Contract Modification** - A contract modification that is signed only by the General Manager.
- **Unit Price Contract** – Contract based on estimated quantities of items and their individual price (price per yard, price per pencil) with indirect costs, overhead, and profit calculated into the total item price.

Appendix

Appendix 1 Approval Authority Matrix

A = Approve, E = Endorse prior to Approval R = Recommend	General Manager	Directors	Managers/ Supervisors/ Procurement	All other Employees as Authorized ¹⁰⁸
Purchasing ¹⁰⁹ Purchase Request (PO, BPO) PO/BPO Change Order Purchasing Card ¹¹⁰ Capital Budget Changes	Up To \$150K ¹¹¹ PO-NTE \$150K \$5,000 ¹¹² transfer from operating up to \$150K ¹¹³	Up To \$80K \$80K \$5,000 ¹¹⁴ E	Up To \$40K \$40K \$5,000 ¹¹⁵ E	Up To \$10,000 \$10,000 \$5,000 E
Contracts Enter into Procurement Contract ^{116, 117} Contract Amendment/Modification ¹¹⁸ Enter into Revenue Contract ¹¹⁹ Enter into Union Contract/Amendments Enter into a Property Use Agreement	\$150K \$50K / 10% A A A	\$10,000 E E E/HR Only E	\$10,000 E E E E	\$10,000 E R E E
Purchasing Card Approve employee issuance & limits Approve employee's monthly charges Terminate card	A A A	A A E	A A E	
Disbursements Invoices ¹²⁰ Employee PCard Charges Employee expense reports	A A A	\$80K A, E A, E	\$40K A,E A,E	\$10K E E
Disposals – Fair Market Value Amount	A	E	E \$5K/Procurement Only	E

This Matrix provides employees listed with actual authority to approve, endorse, and recommend procurement actions. Division Directors and Managers may delegate authority to an exempt employee or subordinate supervisor in writing temporarily when necessary to continue WTA business. Unauthorized deviations are not allowed or encouraged as they infringe on Procurement's values of accountability and professionalism.

¹⁰⁸ Excludes: Transit operators, Dispatchers, Hostlers, Customer Service Reps,

¹⁰⁹ Procurement review & General Manager approval required for all "click through" purchases OVER micro-purchase level.

¹¹⁰ PCard Charges over approved limits may be requested through Procurement

¹¹¹ Finance Director approves PO Requests COMPLETED by the General Manager

¹¹² Finance Director approves monthly charges

¹¹³ POL-502-01

¹¹⁴ General Manager approves monthly charges

¹¹⁵ Department Director approves monthly charges

¹¹⁶ Legal Counsel reviews if a new type of contract.

¹¹⁷ Total contract amount equals 1 year for single use purchases, five (5) years for ongoing or "auto renew" non-IT contracts, three (3) years for IT contracts that auto renew.

¹¹⁸ General Manager Delegation of Authority RESOLUTION 340-23

¹¹⁹ Legal Counsel reviews if non-standard contract

¹²⁰ Requires 2 separate signatures – 1 that the goods were received and 1 approving payment



PURCHASING & CONTRACT ADMINISTRATION POLICY

Appendix 2 Procurement Thresholds

Procurement may recommend alternate purchasing methods to ensure best value and mitigate agency risk.

All purchase requests and change orders will be submitted in WTA’s Procurement and Contract Management system software (Appendix 1).

Procurement ensures that all purchases include contract terms, conditions, and certifications required by the funding source.

Thresholds are based on the total cost over the life of the contract excluding Sales Tax.

Exceptions: Existing WTA Sourced Contracts state, or Pre-Approved Sole Source, Piggyback, Cooperative, or State Purchasing Schedules.

	MICRO	SMALL	FORMAL
Total cost over contract life	\$0 - \$10,000	\$10,001 – 149,999	>\$150,000¹²¹
Staff Involved	<ul style="list-style-type: none"> • Purchaser 	<ul style="list-style-type: none"> • Purchaser and Procurement 	<ul style="list-style-type: none"> • Purchaser, Procurement, General Manager, and Board of Directors
Purchase of material, supplies, equipment, and services (non-A&E or Public Work)	<ul style="list-style-type: none"> • Documented Fair and Reasonable Price determination retained by purchaser. • Documented review of terms, conditions, and risk assessment. 	<ul style="list-style-type: none"> • 3 written quotes obtained and attached to requisition. 	<ul style="list-style-type: none"> • Acquisition Plan, if required • Formal Solicitation Request • Independent Cost Estimate before quotes are received • Formal procurement process (RFP, ITB) • GM and Board approval required
Consulting & other Personal Services	<ul style="list-style-type: none"> • Documented Fair and Reasonable Price determination retained by purchaser. • Confirmation that the consultant did not retire on DRS (Department of Retirement Systems) in 2008¹²² • Documented review of terms, conditions, and risk assessment. 	<ul style="list-style-type: none"> • 3 written quotes obtained and attached to requisition. • Confirmation that the consultant did not retire on DRS (Department of Retirement Systems) in 2008¹²³ 	<ul style="list-style-type: none"> • Acquisition Plan, if required • Formal Solicitation Request • Independent Cost Estimate before quotes are received • Formal procurement process (RFP, RFQ) • GM and Board approval required • Confirmation that the consultant did not retire on DRS (Department of Retirement Systems) in 2008¹²⁴

¹²¹ Formal procurements may be used for lower dollar contracts if in the best interest of the agency

¹²² <https://www.drs.wa.gov/forms/employer/contractorStatusForm.pdf>

¹²³ <https://www.drs.wa.gov/forms/employer/contractorStatusForm.pdf>

¹²⁴ <https://www.drs.wa.gov/forms/employer/contractorStatusForm.pdf>



PURCHASING & CONTRACT ADMINISTRATION POLICY

	MICRO	SMALL	FORMAL
<i>Total cost over contract life</i>	<i>\$0 - \$10,000</i>	<i>\$10,001 - 149,999</i>	<i>>\$150,000¹²⁵</i>
Architect & Engineering Services (A&E)	<ul style="list-style-type: none"> • 3 documented qualification statements, including 1 minority firm from vendors registered for Whatcom & Skagit Counties¹²⁶ with MRSC Roster¹²⁷ category of A&E work to be performed. • Negotiate with the most qualified. • Document why specific A&E vendors were chosen. • Requires approved Certificate of Insurance. • Brooks Act Followed when over \$2,500 and Federally Funded. • Documented review of terms, conditions, and risk assessment. 	<ul style="list-style-type: none"> • Request for Qualifications (RFQ) sent to the list of vendors registered for Whatcom & Skagit Counties¹²⁸ in the MRSC Roster¹²⁹ category of A&E work to be performed. • Negotiate with most qualified and document why they are most qualified. • Requires approved Certificate of Insurance. • Brooks Act Followed when Federally Funded, 	<ul style="list-style-type: none"> • Acquisition Plan, if required. • Formal Solicitation Request. • Independent Cost Estimate before quotes are received. • Formal procurement process (RFQ). • Requires approved Certificate of Insurance. • Brooks Act followed when Federally Funded. • GM and Board approval required.
Public Work (work, construction, alteration, repair, or improvement of facilities)	<ul style="list-style-type: none"> • Independent Cost Estimate before quotes are received¹³⁰ • 3 documented quotes from vendors registered including 1 minority firm with MRSC Roster • Document why specific public work vendors were chosen • Davis Bacon Act followed when over \$2,500 and Federally Funded • Prevailing Wage rules apply at all levels • Requires approved Certificate of Insurance • Documented review of terms, conditions, and risk assessment. 	<ul style="list-style-type: none"> • Independent Cost Estimate before quotes are received¹³¹ • Invitation to Bid (ITB) sent to the entire list of vendors listed in the MRSC category of work to be performed • Davis Bacon Act followed when Federally Funded • Prevailing Wage rules apply • Limited Public Works and Small Works rules apply¹³² • Requires approved Certificate of Insurance • >\$35,000 requires retainage & “Notice of Completion” to be filed and approved with State¹³³. 	<ul style="list-style-type: none"> • Acquisition Plan, if required • Formal Solicitation Request • Independent Cost Estimate before quotes are received • ITB • Requires a Compliance with Wage Statutes Certification • Bids publicly opened • Davis Bacon Act. followed when Federally Funded. • Board approval required • Prevailing Wage rules apply. • Requires approved Certificate of Insurance • Requires retainage & “Notice of Completion” to

¹²⁵ Formal procurements may be used for lower dollar contracts if in the best interest of the agency

¹²⁶ 2 CFR 200.319(c)

¹²⁷ RCW 39.80.040

¹²⁸ 2 CFR 200.319(c)

¹²⁹ RCW 39.80.040

¹³⁰ RCW 39.04.020

¹³¹ RCW 39.04.020

¹³² RCW 39.04.155

¹³³ RCW 39.08.030(3)



	<ul style="list-style-type: none"> • Requires a Compliance with Wage Statutes Certification 	<ul style="list-style-type: none"> • >\$50,000 requires separate payment and performance bonds or 10% retainage¹³⁴ • Requires a Compliance with Wage Statutes Certification • 	<p>be filed and approved with State.</p> <ul style="list-style-type: none"> • Requires separate payment and performance Bond or 10% retainage¹³⁵. <p>Projects over \$1,000,000:</p> <ul style="list-style-type: none"> • Obtain subcontractor list for HVAC, plumbing, and electrical from Prime within an hour of bid close¹³⁶ • Obtain subcontractor list for steel and rebar installation from Prime within 48-hours of bid close¹³⁷
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¹³⁴ RCW 39.08.010(3)

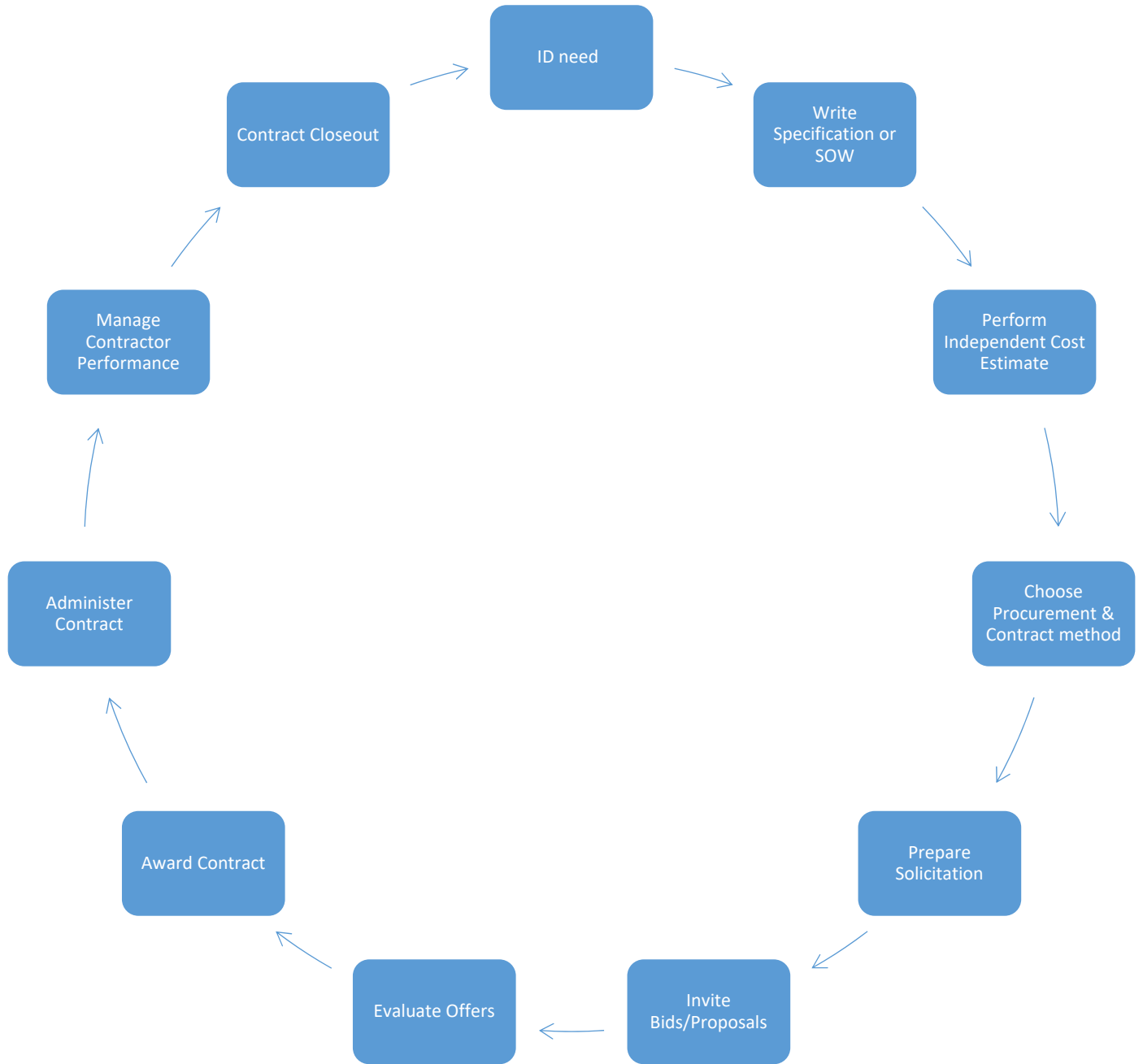
¹³⁵ RCW 39.08.010(3)

¹³⁶ RCW 39.30.060(1)(a)

¹³⁷ RCW 39.30.060 (1)(b)



Appendix 3 Procurement Cycle





Appendix 4 Solicitation Protest Procedures

Filing a Protest

Any party with an interest in the award of the solicitation may file a protest that WTA staff did not follow its own policies and procedures regarding a procurement action as defined below. A protest may not be filed challenging the WTA staff or Evaluation Committee's recommendation of a potentially successful Proposer. The protest must be submitted in writing to WTA's Procurement department, and include the following information:

4. Name, address, email address, and telephone number of the protester
5. Signature of the protester or their representative
6. Identification of the solicitation
7. Detailed statement of the legal and factual grounds of the protest
8. Copies of all relevant documents
9. The form of relief requested

Procurement Action: meaning specific procurement steps, such as setting the calendar of events, producing the proposal/bid document, advertising the proposal or bid in legal paper of record, maintaining a list of proposal/bid holders, conducting a pre-proposal meeting, responding to all approved equals/clarifications received by the appropriate time and date, addenda issued straightforwardly to all proposal/bid holders, enforcing closing time and date, providing proctoring services to the project manager and evaluation committee, setting criteria weights, conducting interview process with top-scoring Proposers and evaluation committee, creating notes to file regarding the proposal/bid process, issuing award/non-award letters, and maintaining a written record of the procurement.

Issues and facts not stated in the Notice of Protest will not be considered.

All communications with involved parties shall be in writing and open for public inspection.

Time for Filing a Protest. A protest based on alleged improprieties or ambiguities in a **solicitation** must be filed at least seven (7) days before the due date of the bid or proposal. A protest based upon alleged improprieties in an **award** of a contract, or a **proposed award** of a contract must be filed within three (3) days after the Notice of Intent to Award has been issued.

Notice of Protest. Procurement shall immediately give notice of a protest to the vendor if a contract has been awarded. If no award has been made, notice will be provided to all solicitation holders.

Stay of Award. If a protest is filed, the award may be made unless the Finance Director determines in writing that:

- a) Reasonable probability exists that the protest will be sustained.
- b) Stay of the award is not contrary to the best interests of WTA.



Review of Protests

Review: The Finance Director, or Designee shall review and investigate properly filed protests and issue a written decision to the protestor:

- a. A meeting(s) will be called within five (5) working days from receipt of the protest that will include representatives from the WTA and the protester to discuss the issue(s) related to the protest. The meeting may be conducted by telephone conference if convenient for both parties.
- b. A decision of the protest will be made by the Finance Director within three (3) working days of the final meeting and at the time the protester shall be notified of the decision in writing by the Director by email or regular mail.
- c. The Finance Director may, at his/her sole discretion, extend the limits of time outlined above.
- d. The decision of the Finance Director shall be final, unless appealed as provided herein.
- e. A request for reconsideration may be allowed if data becomes available that was not previously known, or there has been an error of law or regulation.

Appeal: A Protestor may appeal the Finance Director's formal decision to WTA's General Manager. The written appeal must be received by WTA within two (2) business days after receipt of the written decision by the Protestor, or the appeal will not be considered. Properly filed appeals of the decisions of the Finance Director shall be reviewed and investigated by the General Manager who shall issue WTA's final decision no later than 21 days after receipt.