

### Historical Perspective

This policy was amended on March 22, 2012. This policy was previously known as the Procurement Policy. This policy includes Contract Modifications.

The Federal Transit Administration requires that the organization have a set of procurement procedures that conforms to applicable local, state and federal laws and regulations.

The Board approved the first Procurement Policies and Procedures Manual (PPPM) in July 1997 following the consolidation of the Procurement Departments as the only set of policies on procurement and contract administration. As laws and regulations have changed, staff has brought amended versions of the Manual for the Board's approval.

In March 1999, the Board reiterated the CEO authority to approve contracts up to \$100,000 is given on a per contract basis only. Any and all changes to the Procurement Manual shall come before the Executive Management Committee and full Board in a clear and concise request for approval.

In July 1999, the Board approved a revision to the CEO contracting authority for Purchases, Services and Miscellaneous contracts, other than Public Works contracts, from \$100,000 to \$200,000. It established Board delegated CEO contract approval authority for modifications/amendments to an aggregate of \$100,000 over the life of the contract. It also required that modifications/amendments to service contracts directly related to rail construction be treated similar to rail construction (Public Works) change orders.

In October 1999, the Board adopted policy changes to the DBE and SBE program that encompassed greater participation on the part of small businesses; appropriate changes were included in the Procurement Policies and Procedures Manual.

In March 2000, the Board approved four additional changes to the PPPM. They included revisions to reflect increases in the small purchase thresholds to \$40,000 for purchases of supplies, equipment and materials and increased the micro purchase threshold to \$2,500 in accordance with approved Senate Bill 532 amended the circumstances under which two step sealed bidding may be used, revised the section on protests, and implemented public notification on all formal bid results.

Six changes occurred in the February 2001 Board action. They included revisions to the Manual to ensure that it:

- reflected current policies and practices of Pre-Qualification
- required approval by the CEO, DCEO or the CFO, for procurement policy and procedure waivers when Procurement is the user Department,
- increased the threshold for submission of certified cost or pricing data and audit requirements from \$100,000 to \$500,000,
- clarified the CEO's authority to reject all bids for construction contracts under California Public Utilities Code § 130051.9(c), and delegated to the Executive Officer, Procurement, authority to reject all bids in limited circumstances;
- clarified the responsibility of the CEO as the Contracting Officer with power of further re-delegation; and
- added the authority of the Inspector General to enter into contracts and other arrangements.

August 2001, key policy changes incorporated language from previous Board direction that the CEO not approve construction contracts that exceed the Board authorized project budgets. It also included changes necessary for compliance with FTA guidelines regarding pre-qualifications. This policy change also adds the two-year applicability of pre-qualification applications.



In September 2001, the Board approved a significant enhancement of the PPPM which included the incorporation of previous Board approved changes, industry best practices, updated legislative statutes, and a new policy, Disposal of Personal Property.

In March 2002, the Board approved revisions to the PPPM to comply with changes in California law and 49 CFR Part 26. In April 2002, the Board approved a revision to the agency's Procurement Policies and Procedures Manual to require contractors to certify requests for payment.

In July 2002, the Board approved revisions to incorporate FTA's recently produced guidelines to assist grantees in compliance in the area of mandatory contractual flowdown requirements and incorporated policy language providing for clarity in the Check Request Processing policy.

The most recent amendment to the Manual occurred in March 2003, when staff made significant changes to reflect a paradigm shift in the procurement process, eliminating procedural constraints and conflicting requirements that have kept staff from serving its clients and exercising sound business judgment. The revised policy streamlines the procurement process by providing guiding principles for agency acquisitions. Sections have been redrafted to comply with applicable regulations and eliminate redundancies. The title was changed to Procurement Policy Manual.

In April 2003, the Board delegated to the Chief Executive Officer the authority to approve all amendments to renew annual software and hardware license and maintenance agreements. This change in policy is consistent with current industry practices and embraces best practices and sound business judgment.

COMPARISON OF CURRENT & PROPOSED ACTIONS

WHO	CURRENT ACTION	CURRENT LIMIT	PROPOSED ACTION	PROPOSED LIMIT	
Chief Executive Officer/Deputy Chief Executive Officer	Make Statutorily Required Findings/ Approve/ Award	<i>Modifications to all contracts, including construction contracts, which increase the aggregate contract price by no more than \$100K or 10% of the original contract award, whichever is greater, over the life of the contract, provided no single modification exceeds \$500K, unless the Board has authorized a higher limit.</i>	<i>Modifications to all contracts, including construction contracts, where the original award is:</i>	<i>Individual modification limit</i>	<i>Cumulative limit over the life of the Contract</i>
			<i>Up to and including \$1 Million</i>	\$100,000	\$100,000
			<i>Above \$1 Million, up to and including \$20 Million</i>	\$500,000	<i>10% of the original contract award</i>
			<i>Above \$20 Million, up to and including \$100 Million</i>	\$1,000,000	<i>10% of the original contract award</i>
			<i>Greater than \$100 Million</i>	\$5,000,000	<i>10% of the original contract award</i>

## REVISED DELEGATION OF AUTHORITY

## 10.3.1 AUTHORITY TO APPROVE CONTRACT ACTIONS

WHO	ACTION	LIMIT	
Board of Directors	Make Statutorily Required Findings, Approve and Award contract and modifications to contacts for the acquisition of supplies, equipment, materials, services and construction	Pursuant to CA PUC §130051.9, §130051.11 and §130051.12.	
Inspector General	Approve and Award Contracts and modifications related to OIG operations.	Contract awards up to and including \$100K; and, Modifications up to \$100K cumulative over the life of a contract	
Chief Executive Officer Deputy Chief Executive Officer	Make Statutorily Required Findings pursuant to CA PUC §130233, 130234, 130236, and 130237; Approve and Award:		
	New contracts, to the lowest, responsive, responsible bidder under sealed bid procedures.	Up to and including \$1,000,000	
	All other contracts	Up to and including \$500,000	
	<b>Modifications to all contracts, including construction contracts, where the original award is:</b>	<b>Individual modification limit</b>	<b>Cumulative limit over the life of the Contract</b>
	<b>Up to and including \$1 Million</b>	<b>\$100,000</b>	<b>\$100,000</b>
	<b>Above \$1 Million, up to and including \$20 Million</b>	<b>\$500,000</b>	<b>10% of the original contract award</b>
	<b>Above \$20 Million, up to and including \$100 Million</b>	<b>\$1,000,000</b>	<b>10% of the original contract award</b>
	<b>Greater than \$100 Million</b>	<b>\$5,000,000</b>	<b>10% of the original contract award</b>
	All software and hardware licenses and maintenance agreement renewals	Unlimited	
Chief Executive Officer	Award construction contracts based on the lowest responsible bid pursuant to CA PUC §130051.9(c)	Unlimited	



**Acquisition Policy and Procedure  
Manual**

**Acquisition Policy Statement  
ACQ-1**

**Issued: July 16, 2010**



## POLICY STATEMENT

The Acquisition Policy and Procedure Manual (APPM) consolidates all Authority acquisition policies and procedures into a comprehensive reference book for Authority personnel and outside parties having an interest in the Authority’s acquisition process. The APPM includes an Acquisition Policy Statement, ACQ-01 (Chapter One) adopted by the Board of Directors on February 1, 2010, and implementing procedures , ACQ-02 (Chapter 2-et seq.) issued by the Executive Officer Procurement and Material. In the event of a conflict between ACQ – 01 and ACQ – 02’ ACQ – 01 shall apply.

## PURPOSE

This policy statement does several things:

- It extracts those areas of the prior Procurement Policy Manual that address fundamental areas of acquisition policy, specifically:
  - Guiding Principles of the Metro Acquisition System
  - Acquisition Standards
  - Limitations on the use of Other than Full and Open Competition (single and sole source procurements)
  - Authorities and responsibilities of Metro staff in conducting acquisitions, including the authority of authorized agents of the MTA known as Contracting Officers
  - Requirements for Board and management approval of contracting actions and the treatment of unauthorized actions.
- It establishes the threshold levels required for Board approval of contract actions.
- It changes the policy name. Acquiring goods and services should be viewed as a continuous process rather than a series of discrete activities performed by isolated individuals or groups. Changing the name from Procurement Policy to Acquisition Policy, broadens the emphasis to address the full life cycle of an acquisition from requirements development and definition through the, “bid and award’ process that is normally referred to as Procurement to successful performance and maintenance. This shift is essential to making the overall process more effective and efficient.
- It consolidates by incorporation, other Board policies that affect the conduct of the Acquisition.



This policy works in conjunction with other agency policies (DBE, SBE, MBE and WBE and Ethics policies for example) by requiring that they be addressed in all applicable Metro acquisitions. It is the intent, in adopting this policy, that all future policies affecting the conduct of the acquisition process be incorporated into this policy, to provide a central point for Acquisition Policy at Metro.

**APPLICATION**

The Acquisition Policy and associated procedures making up the APPM apply to all Authority and Board personnel engaged in the acquisition process.

**HOW TO USE AND TO RECOMMEND CHANGES TO THE APPM**

The APPM is divided into chapters with Chapter One as the Board Acquisition Policy Statement and the remaining chapters based upon selected subject areas. Each chapter has its own page numbers. Some chapters may be reserved for subjects to be added later as the need arises. Only the Board of Directors may make changes to the Acquisition Policy Statement.

Proposed changes, corrections or additions to the APPM, including recommended changes to the Acquisition Policy Statement, should be sent to the Executive Officer Procurement and Material (EO) who is responsible for maintaining the APPM. The EO will assign or coordinate as necessary the proposed changes or additions with the appropriate offices.



## **Acquisition Policy Statement**

### **1.0 PURPOSE AND SCOPE**

- 1.1 The Los Angeles County Metropolitan Transportation Authority (Metro) Acquisition Policy Statement (Policy) establishes the broad framework for Metro’s acquisition and contract administration process.
- 1.2 The Acquisition Policy sets forth the Board’s direction on conducting Metro’s acquisition and contract administration activities and provides guidance that will govern the conduct of all Metro departments and those personnel engaged in such activities. It is the intent of the Board that this is the sole policy governing acquisition and contract administration activities at Metro and that other, related, stand alone policies become a part of this policy.
- 1.3 This Acquisition Policy does not apply to the acquisition of real property, joint development projects or to the selection of state or local grantees, but does apply to all other Metro acquisition of goods and services, including public works.

### **2.0 DEFINITIONS**

- 2.1 Acquisition - The acquiring by contract of goods (including but not limited to supplies, equipment and material) and services (including, but not limited to, construction, public works, communication and planning projects) by and for the use of Metro through purchase or lease, whether the goods or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when Metro’s needs are established and includes the analysis and description of requirements, solicitation and selection of sources, award of contracts, contract financing, contract performance and administration, and those technical and management functions directly related to the process of fulfilling Metro’s needs by contract.
- 2.2 Acquisition Planning - The process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition.
- 2.3 Award (Contract Award) – The action by the Board of Directors or the CEO, or his deligee, authorizing the Contracting Officer to enter into and execute a contract on behalf of Metro.



- 2.4 Contract Administration - The management of all actions that must be taken to assure compliance with Metro contracts. These include, but are not limited to:
  - 2.4.1 Monitoring Contractor Performance
  - 2.4.2 Quality Surveillance of the Product or Service During Contract Performance
  - 2.4.3 Inspection and Acceptance of the product or service
  - 2.4.4 Contract Modifications and Changes
  - 2.4.5 Dispute and Claims Resolution
  - 2.4.6 Authorizing Payment
  - 2.4.7 Contract Closeout
- 2.5 Contract - A mutually binding written legal agreement obligating the seller to furnish the goods or services and the buyer to pay for them. It includes all types of legally permissible commitments that obligate Metro to an expenditure of Board approved funds.
- 2.6 Contracting Officer(s) – The only agent(s) of Metro authorized to enter into, modify, administer or terminate contracts and make related determinations and findings.
- 2.7 Contracting Officer’s Representative/Technical Representative (COR/COTR) - A responsible Metro employee, designated in writing by the Contracting Officer to perform specified contract administration functions. The COR/COTR is generally authorized to provide technical guidance to Metro contractors.
- 2.8 Execution (contract execution) - The legal act by which the Contracting Officer enters into or modifies a contract on behalf of Metro.
- 2.9 Full and open competition - When used with respect to a contract action, means that all responsible sources are permitted to compete.
- 2.10 Micro Purchase Limit –\$3,000 or as otherwise set forth in the Public Utility Code.
- 2.11 Simplified Acquisition Threshold – The threshold below which the Contracting Officer may use simplified methods of acquisition. Generally, \$100,000 for supplies, equipment, materials and services; and \$25,000 for construction; or as otherwise set forth in the Public Utility Code.

**3.0 GUIDING PRINCIPLES OF THE METRO ACQUISITION SYSTEM**

- 3.1 This Statement of Guiding Principles establishes the framework for this Policy:
- 3.2 The goal of every Metro acquisition is to procure and receive delivery of goods and services to support the agency’s activities in a timely and cost efficient manner while maintaining the public’s trust in fulfilling Metro’s public policy objectives.



- 3.3 Metro acquisitions are team efforts, and the participants in the acquisition process include representatives of the Procurement and Material Management Department, Metro client departments, all Metro support departments and functions including, but not limited to, DEOD, engineering, quality assurance, safety and legal counsel, and the Metro contractors who provide goods and services.
- 3.4 Each Metro participant in an acquisition will exercise personal initiative and sound business judgment, in accordance with applicable laws, this Policy and other Board adopted policies, and applicable Acquisition Procedures.
- 3.5 Metro participants may use any acquisition strategy practice, policy or procedure that is appropriate to the particular acquisition is in the best interests of Metro and is not prohibited by law, regulations or Board adopted policy.

**4.0 METRO ACQUISITION STANDARDS**

- 4.1 All Metro employees, members of the Board, Contractors and Consultants will adhere to all applicable laws, the Metro Administrative Code, and applicable administrative regulations and guidance governing ethics and conflicts of interest.
- 4.2 Acquisitions shall be conducted in a manner that provides full and open competition, to the extent possible, consistent with this Policy and applicable law.
- 4.3 Contract terms shall incorporate a clear and accurate description of the goods or services to be procured, and shall not be structured in a manner that unduly restricts competition.
- 4.4 Metro will maintain acquisition and contract administration systems that ensure acquisitions are conducted in accordance with this Policy and that contracts will be performed by both Metro and its contractors in accordance with the terms of the contract.
- 4.5 Metro will have written selection procedures for all acquisitions and such procedures shall ensure fair, unbiased evaluation of competing bids and proposals.
- 4.6 Metro will provide for proper planning, execution, administration and review of acquisitions and contracts to ensure consistency and efficiency.
- 4.7 Metro will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a contract. Consideration will be given to such attributes as trustworthiness, quality, fitness, capacity and experience to perform the contract. This may include, but is not limited to investigation of contractor integrity,



compliance with public policy as implemented by applicable laws and regulations, record of past performance, safety records and financial and technical resources.

- 4.8 Contracting Officers are responsible for the resolution of all acquisition related issues and disputes in accordance with this Policy, applicable Acquisition Procedures, laws and regulations.

**5.0 SMALL BUSINESS PARTICIPATION**

- 5.1 It is the policy of Metro, consistent with applicable Federal and State laws and regulations and Metro Board policy, to promote the utilization of Disadvantaged Business Enterprises (DBE), Small Business Enterprise (SBE), Women Owned Business Enterprises (WBE) and Minority Business Enterprises (MBE) to the maximum extent feasible. Metro’s acquisition and contracting processes will provide a level playing field for small businesses to compete for and participate in all aspects of Metro contracting activity. Metro shall never exclude any person from participation in, or deny any person the benefits of, or otherwise discriminate against anyone, in connection with the award and performance of any Metro contract on the basis of race, color, sex or national origin.

- 5.2 Metro will take all steps to ensure that all small businesses (DBE, SBE, MBE and WBE) are utilized wherever possible. Steps shall include:

- 5.2.1 Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate small businesses participation (e.g., in large contracts, to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- 5.2.2 Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g. by such measures as simplifying the bonding process, reducing bonding requirements, reducing the impact of surety costs from bids, and providing services to help small businesses obtain bonding and financing);
- 5.2.3 Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g. Ensuring the inclusion of small businesses on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors, provision of information in languages other than English, where appropriate);
- 5.2.4 Providing services to help small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects and achieve eventual self-sufficiency;



5.2.5 Assisting small businesses to develop their capability to utilize emerging technology and conduct business through electronic methods.

**6.0 OTHER THAN FULL AND OPEN COMPETITION**

6.1 The following circumstances permit other than full and open competition:

6.1.1 Goods – Metro may provide for the acquisition of supplies, equipment and materials using procedures that limit competition only to the extent authorized by applicable law and subject to the statutory requirements for findings and determinations by the Board or the CEO.

6.1.2 Services - Metro may provide for the acquisition of services using procedures that limit competition if the Contracting Officer determines, in writing, that the method of acquisition complies with applicable federal and state laws and regulations.

6.1.3 Simplified acquisition procedures Simplified acquisitions procedures may be used for acquisitions which do not exceed the simplified acquisition threshold in force at the time of the acquisition. Where such simplified acquisition procedures are used, Metro will promote competition to the maximum extent practicable.

6.2 Contracting without providing for full and open competition shall not be justified on the basis of—

6.2.1 A lack of advance planning by the client department; or

6.2.2 Concerns related to the availability of funds.

**7.0 RESPONSIBILITIES**

7.1 All Metro departments shall support the acquisition process in accordance with this Policy, applicable law and applicable Acquisition Procedures. Metro client department officials will plan acquisition actions so as to comply with the requirements of the Metro acquisition system. The head of the Procurement and Material Management Department will issue procedures for Acquisition Planning.

**8.0 STATUTORY AND REGULATORY REQUIREMENTS AND GUIDANCE**

8.1 Acquisitions shall be conducted in accordance with all applicable federal and state laws and regulations, and the policies of the Metro Board of Directors.

8.2 Metro shall comply with applicable grant requirements when Metro uses grant funds (predominantly federal and state funds) in an acquisition.



**9.0 CONTRACTING OFFICERS**

- 9.1 Authority to enter into, administer, modify or terminate contracts and make related findings on behalf of Metro is delegated as set forth in Section 1.9. The CEO may re-delegate such authority to qualified employees of Metro’s Procurement department, who shall be designated Contracting Officers. Contracting Officers may re-delegate this authority and bind Metro only to the extent of the authority delegated to them. All such delegations shall be in writing.
- 9.2 No contract, modification or other commitment of Metro resources shall be binding on Metro until such contract, modification or commitment has been committed into the appropriate legal form and executed by an authorized Contracting Officer. Actions of the Board approving the award of a contract or modification to an individual or firm shall not give rise to any contractual rights, duties or obligations until such contract, modification or commitment has been executed by an authorized Contracting Officer.
- 9.3 No contract shall be entered into unless the Contracting Officer ensures that requirements of law, Board policy, regulations, and all other applicable procedures, including required approvals, have been met.
- 9.4 The Head of the Procurement and Material Management Department shall establish a system for selecting, training, recommending and appointing Contracting Officers. Contracting officers shall receive clear instructions in writing regarding the limits of their authority. Information on the limits of the Contracting Officers’ authority shall be readily available to the public and agency personnel.
- 9.5 Contracting Officers may appoint authorized representatives for the purpose of providing technical guidance to contractors or otherwise assisting in contract administration. Such delegation is subject to the following:
  - 9.5.1 The delegation must be in writing and state the authority level being delegated. Failure to state the authority level makes the delegation invalid.
  - 9.5.2 The contract or class of contracts and the specific responsibilities being delegated must be clearly defined.
  - 9.5.3 The delegated authority may not exceed the authority of the Contracting Officer.
  - 9.5.4 The delegated authority may not modify or exceed the terms of the contract(s).
  - 9.5.5 Such individual(s) are referred to as the Contracting Officer’s Representative / Technical Representative (COR/COTR).



**10.0 CONTRACT APPROVAL REQUIREMENTS**

- 10.1 The Board authorizes the Chief Executive Officer, the Deputy Chief Executive Officer and the Inspector General to approve contract awards and make statutorily required findings of fact in accordance with the table below and to the extent permitted by law.
- 10.2 Under no circumstances will acquisition actions be split into subparts or smaller similar actions to avoid limits specified below or to avoid any other Acquisition Policy or procedure.
- 10.3 The Board authorizes Metro Contracting Officers to conduct any acquisition process to the extent permitted by law without prior Board approval. Award of resulting contracts are subject to the approval requirements of this section:



10.3.1 AUTHORITY TO APPROVE CONTRACT ACTIONS

WHO	ACTION	LIMIT
Inspector General	Approve / Award	Contract awards to \$100K and modification/amendments sensitive to OIG operations and which increase the aggregate contract price by no more than \$100K over the life of the contract
Chief Executive Officer Deputy Chief Executive Officer	Make Statutorily Required Findings / Approve / Award	Contract awards, other than construction contract awards, to the lowest, responsive, responsible bidder under sealed bid procedures to \$1 Million. All other contract awards to \$500K, Modifications to all contracts, including construction contracts, which increase the aggregate contract price by no more than \$100K or 10% of the original contract award, whichever is greater, over the life of the contract, provided no single modification exceeds \$500K, unless the Board has authorized a higher limit.
Chief Executive Officer	Make Statutorily Required Findings / Approve / Award	All software and hardware licenses and maintenance agreement renewals
Chief Executive Officer	Approve / Award	Construction contracts based on lowest responsible bid pursuant to CA PUC §130051.9(c)
Board of Directors	Make Statutorily Required Findings / Approve / Award	All other contract awards and modifications to contacts which exceed the limits stated.



**11.0 RATIFICATION OF UNAUTHORIZED COMMITMENTS**

**11.1 Definitions**

11.1.1 Ratification - refers to an action by the CEO, or a designee, to approve or sanction an unauthorized agreement, commitment or obligation made by a Metro employee without the legal authority to act, thereby making the agreement, commitment or obligation binding on Metro. Such approval shall be restricted to the appropriate level of delegated authority as set forth under Section 10.

11.1.2 Unauthorized commitment – as used in this subsection means an agreement, commitment or obligation between a Metro employee and a third party that is not binding on Metro solely because the person who made it lacked the authority to make such commitment or obligation on behalf of Metro.

11.2 Metro business units shall take all reasonable steps to preclude the need for ratification actions. Although procedures are provided in this section for use in those cases where the ratification of an unauthorized commitment is necessary, it is considered an extraordinary measure and these procedures shall not be used in a manner that encourages or sanctions such actions.

11.2.1 Subject to the limitations in this Section, the CEO may ratify an unauthorized commitment.

11.2.1.1 Approval and award of all contract actions that ratify an unauthorized commitment are subject to the approval and award requirements of Section 13.

11.1.2.2 Ratification authority may be delegated by the CEO in accordance with Acquisition Procedures, but in no case shall the authority be delegated below the level of Director in the Procurement and Material Management Department. Repetitive violations and disregard for Acquisition Policy will be referred to the Head of the Procurement and Material Management Department and the Head of the Strategic Business Unit in which the unauthorized commitment occurred for review and action.

11.3 Limitations. An unauthorized commitment may only be ratified under the following circumstances:

11.3.1 Goods or services have been provided to and accepted by Metro, or Metro has otherwise obtained or will obtain a significant benefit resulting from the unauthorized commitment;



- 11.3.2 The resulting contract would otherwise have been proper if made by an authorized Contracting Officer;
- 11.3.3 The Contracting Officer reviewing the unauthorized commitment determines, in writing, the price is fair and reasonable, and that the facts relied upon to ratify the unauthorized commitment are clear and intelligible.
- 11.3.4 The head of the Strategic Business Unit in which the unauthorized commitment occurred, provides a written explanation of the circumstances of the commitment, the reason(s) proper procedures were not followed and a corrective action plan to avoid future unauthorized commitments and concurs in writing that the goods or services are needed and the action should be ratified for the benefit of Metro.

*If ratification results in a single or sole source award, Section 6 of this Policy shall also apply.*

- 11.3.5 Funds are currently available and were available at the time the unauthorized commitment was made; and
- 11.3.6 The ratification is in accordance with any other limitation prescribed under Metro procedures.
- 11.4 The head of the Procurement and Material department will report monthly all Ratification actions to the CEO.
- 11.5 The CEO will report monthly on all Ratification actions in excess of \$100k to the Board of Directors.

**12.0 GENERAL ACQUISITION POLICIES**

- 12.1 From time to time, the Board may adopt policies which directly affect Metro acquisitions. These policy statements will be incorporated into Appendix A to this Policy Statement.

**13.0 PROTESTS**

- 13.1 Any interested party shall have the right to protest a Metro procurement action and have its complaint considered and resolved administratively by Metro in an economical and expeditious manner
  - 13.1.1 An “Interested Party is an actual or prospective offeror whose direct economic interest would be affected by the award of a Contract or by the failure to award a Contract. Interested parties do not include subcontractors or suppliers of an actual or prospective offeror, or joint venturers acting independently of a joint venture.



**14.0 IMPLEMENTATION**

- 14.1 The Chief Executive Officer shall be responsible for the implementation of this Policy. The Chief Executive Officer may delegate implementation of this Policy and development of such Procedures as are necessary to carry out this Policy.
- 14.2 Changes to or deviation from this Policy, shall only be approved by the Board, unless the change results from a change in federal and state law or regulation, or other Board adopted Policies, in which case this Policy will be deemed changed and the CEO is authorized to amend the language of this Acquisition Policy. When such a change is made, the CEO shall provide a report to the Board updating the Policy language.

**APPENDIX A - BOARD ADOPTED POLICIES**

- A.1 **Alternative Dispute Resolution For Rail Construction Projects** - The Chief Executive Officer (CEO) is authorized to exercise broad discretion in settling disputes over construction contracts in advance of arbitration or litigation. The CEO may also execute change orders of up to \$500,000 to settle disputes or liquidate arbitrator decisions involving general contractors and first-tier subcontractors that have performed construction work on the Metro Rail Lines. For those claims that cannot be settled through negotiation, the agency will enter into binding arbitration. (adopted 5/1999)
- A.1.1 The CEO must inform the Board, in writing, of change orders over \$250,000 that settle disputes, but do not liquidate arbitration judgments. The Board will respond within seven days, if they object, and the matter will be added to the agenda at the next Construction Committee and full Board meetings. If the Board does not object, the CEO will execute the change order to resolve the dispute.
- A.2 **Construction Management Consultant Services Guideline** - It is the policy that contracting out of Construction Management Consultant Services shall not exceed 9.6% of the total project cost. The Construction Committee must be notified of any increase in the cost of Construction Management Consultant Services that are greater than 9.6% of total project cost, regardless of project size. (adopted 2/2001)
- A.3 **Media Procurement** - The Board allows designated media buyers to procure media, such as radio and television advertising, in a manner consistent with media industry practices. Media buyers may be either outside professional services or members of the Communications staff. They are responsible for obtaining and analyzing bids from media outlets, negotiating rates, and recommending media choices to management. Media buyers may also place orders on behalf of the agency with the approval of the CEO or designee. The Board's Acquisition Policy requires Procurement staff to document media purchases. The Chief Communications Officer or designee may initiate media acquisitions, and the Chief Executive Officer or designee may sign for media contracts for up to \$500,000, with \$250,000 aggregate amendment authority. (adopted 12/2002)
- A.4 **Freeway Service Patrol Beat Cap** – The Freeway Service Patrol (FSP) is a countywide program to mitigate traffic congestion by clearing disabled vehicles from freeways. The area of the Los Angeles County freeway system that is patrolled by FSP drivers is divided into over 40 freeway segments. An FSP beat is defined as a tow truck operation confined to a specific freeway segment. (adopted 9/2001)
- A.4.1 The Freeway Service Patrol beat cap policy allows a two beat maximum for experienced FSP contractors that any single contractor can be awarded.
- A.4.2 The policy temporarily restricts a new contractor, without previous freeway service patrol experience in Los Angeles County to one beat award for a period



of six months before being able to bid for a second beat. Provided that the contract performance is satisfactory.

- A.5 **Environmental Policy** - The Los Angeles County Metropolitan Transportation Authority (LACMTA) will be a leader in maximizing the environmental effort and its benefits for Los Angeles County through our core mission of moving people efficiently and effectively using an Environmental Management System as its primary tool in applying sustainable principles and practices in our planning, construction, operations, and procurement to protect the environment for present and future generations. (adopted 4/2009)



# Acquisition Policy and Procedure Manual

## Chapter 1 -Acquisition Policy Statement

### Summary of Revisions

Policy Section	<u>Revision</u>	Reason
All	New	Adopted by LACMTA Board of Directors, February 1, 2010. Note: sections have been re-numbered from the original, for consistency.

**NOTE: THIS SUMMARY SHEET IS INTENDED FOR REVIEW PURPOSES ONLY. IT IS NOT INTENDED FOR INTERPRETATION OF POLICY GUIDELINES. REFER TO POLICY DOCUMENT FOR ACTUAL GUIDELINES AND PROCEDURES.**