

**Metro**Los Angeles County
Metropolitan Transportation AuthorityOne Gateway Plaza
Los Angeles, CA 90012-2952213.922.2000 T
metro.net

REVISED
EXECUTIVE MANAGEMENT COMMITTEE
NOVEMBER 21, 2013

SUBJECT: ACQUISITION POLICY**ACTION: ADOPT A REVISION TO THE METRO ACQUISITION POLICY****RECOMMENDATION**

Adopt a revision the Metro Acquisition Policy allowing the Chief Executive Officer or his designee(s) to cancel an invitation for bids (IFB) and reject all bids under specified circumstances.

ISSUE

Public Utility Code section 130232, subsection (a) states, "The commission [Board], at its discretion, may reject any and all bids and readvertise." Therefore, Board authorization is required to allow the CEO or his designee(s) to cancel an invitation for bids (IFB).

In 2010, the Board adopted the Metro Acquisition Policy (Policy) setting forth general guidelines for the conduct of LACMTA acquisitions. The Policy describes specific delegations of authority to award contracts but is silent on staff authority to cancel a solicitation without making an award.

Adoption of this recommendation will allow the CEO and his designee(s) to cancel an invitation for bid and, where appropriate, proceed to reissue a revised IFB when it is in the best interests of the LACMTA to do so. This action will reduce procurement cycle time when a re-procurement action is required.

POLICY IMPLICATIONS

Preservation of the integrity of the sealed bid system dictates that after bids have been opened, award should be made to that responsible Bidder that submitted the lowest responsive bid unless there is a reason to reject all bids and cancel the IFB.

FTA Circular 4220.1f allows for cancellation of bids after opening provided there is a sound, documented business reason however PUC 130232 ~~allows for cancellation but~~ requires Board action to cancel an IFB.

Reasons for cancellation include the following and are consistent with rules adopted in the Federal Acquisition Regulations:

- a) **Prices were determined to be unreasonable; or**
- b) **Bids received indicate that the needs of the MTA can be satisfied by a less expensive article differing from that for which the bids were invited; or**
- c) **There is evidence of collusion or bad faith; or**
- d) **No responsive bids were received from a responsible bidder; or**
- e) **The supplies or services being contracted for are no longer required; or**
- f) **Specifications have been revised or were otherwise determined to be inadequate or ambiguous; or**
- g) **For other reasons, cancellation is clearly in the public's interest.**

Requiring the Board to cancel solicitations adds to the acquisition lead time without significant public benefit. Re-procurement action can't begin and ultimate delivery of goods and services is delayed. Further, bidders are left in an ambiguous situation, uncertain whether to remain ready to continue with an existing procurement or prepare for the next opportunity.

ALTERNATIVES CONSIDERED

The Board could choose not to adopt this policy in which case it would continue to review recommendations to cancel IFBs, even when there is little alternative to cancellation.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no direct impact on the safety of Metro's employees and customers.

FINANCIAL IMPACT

The funding for implementation of this policy revision is included in the FY'14 budget in cost center 6940, Contract Administration, under project number 100001, General Overhead, and is eligible for bus/rail operating or capital expense.

Impact to Budget

Source of funds: The funding for Project # 100001 is based on MTA's federally approved indirect cost allocation plan which distributes costs agency-wide including bus and rail operating projects.

NEXT STEPS

The Procurement and Supply Chain Management Department will publicize this revision to the agency and adopt appropriate procedures for implementation. **Staff will submit board box reports quarterly advising the board of any cancellations.**

ATTACHMENT(S)

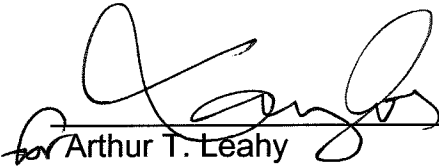
- A. Recommended addition of para. 10.1.1 to the Acquisition Policy Statement

Prepared by:

Theodore Montoya, Executive Officer, Procurement and Supply Chain Management
David L. Vila, Acquisition Policy Officer



Michelle Lopes Caldwell
Chief Administrative Services Officer



Arthur T. Leahy
Chief Executive Officer

ATTACHMENT A

RECOMMENDED ADDITION OF PARA. 10.1.1 TO THE ACQUISITION POLICY STATEMENT

Add paragraph 10.1.1 to the Acquisition Policy Statement under existing paragraph 10.1.

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.

10.1.1 Cancellation of bids after opening – The Board further authorizes the Chief Executive Officer and his designee(s) to cancel an invitation for bids (IFB) and reject all bids after opening if there is a sound, documented business reason.