




November 6, 2023

To: Executive Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Proposed Revisions to Orange County Transportation Authority's Procurement Policies and Procedures

Overview

The Orange County Transportation Authority Board of Directors has adopted policies and procedures that guide all procurement activities. The Board of Directors periodically reviews these policies and procedures and may make changes as necessary in an effort to conform to changing business needs while continuing to ensure procurements are conducted in a fair, transparent, and equitable manner for all vendors and provide for the best value and use of taxpayer dollars.

Recommendation

Adopt the proposed revisions to the Orange County Transportation Authority's Procurement Policies and Procedures and authorize staff to implement the recommended changes.

Discussion

In March 2023, following a request from the Board of Directors (Board), staff conducted a Board workshop to provide information on the current procurement process. During the workshop, various aspects of the procurement process and procedures related to the Disadvantaged Business Enterprise (DBE) requirements were discussed. In August 2023, staff presented an overview of the federally required DBE program, outreach efforts, as well as tools and resources available to the business community. Following these efforts, the Board further directed staff to reach out to various interest groups to discuss potential changes to the procurement process.

Industry Review

Before finalizing any recommended changes to the OCTA's Procurement Policies and Procedures, staff met with the business community to discuss potential changes. Representatives from the American Council of Engineering Companies, the Society for Marketing Professional Services in Orange County, Construction Management Association of America, and Orange County Public Affairs Association met with staff to learn about the potential changes and to provide their perspectives on the proposals. Comments received from these meetings helped staff in shaping the recommendations presented in this staff report.

Changes to the procurement policies and procedures are implemented only after thorough review and consideration for the need and impact. OCTA has a track record of receiving the highest praise from Federal Transit Administration (FTA) reviews, has consistently received the Award of Excellence from the National Procurement Institute, and received numerous positive comments from the vendor community for OCTA's steadfast commitment to transparency and consistency. As a result of the efforts noted above, the recommendations contained in this staff report relate only to adjusting Board approval thresholds. While other policy and procedure changes have been explored, those potential changes need further evaluation and review before staff is prepared to recommend any changes.

Based on Board direction, staff has explored various procurement processes and developed recommended changes with respect to streamlining the procurement process by adjusting Board approval thresholds. To achieve better efficiencies in delivering projects in a more timely manner, staff examined the possibility of raising the approval thresholds in several areas as listed below:

- Increase the Board-approval threshold for all request for proposals (RFP)/cooperative agreements to \$500,000 from \$250,000. Research determined that peer transportation agencies managing similar large projects have higher Board-approval thresholds as follows:

Riverside County Transportation Commission	\$100,000
San Bernardino County Transportation Authority	\$100,000
Dallas Area Rapid Transit	\$250,000
Santa Clara Valley Transportation Agency	\$300,000
Los Angeles County Metropolitan Transportation Authority	\$500,000
Metrolink	\$500,000
North County Transit District	\$500,000
San Diego Association of Governments	\$5,000,000
Sound Transit	\$10,000,000

Staff also reviewed the number of contracts that the Board has approved over the past three fiscal years and the contract dollar amounts. The review found that raising the approval threshold to \$500,000 would still result in the Board approving over 95 percent of all contract dollars procured (Attachment B). Based on this and the approval thresholds for similar agencies, staff recommends increasing the Board-approval threshold to \$500,000.

Along with the recommendation to raise the contract threshold, staff proposes that the threshold on Board-approved amendments also be raised to \$500,000 to be consistent with the contract award limits.

- Increase the Board approval threshold for all non-construction invitation for bids (IFB) from \$250,000 to \$500,000. State law requires an award to the lowest responsive, responsible bidder. While the Board does not have discretion to pick any vendor other than the lowest responsive, responsible bidder, the Board always has discretion to decide whether or not to continue with a project. This recommendation would delegate the responsibility of determining whether IFBs \$500,000 or under should proceed or not to the Chief Executive Officer.

- Increase the Board-approval threshold for sole source procurements from \$25,000 to \$100,000. Making this change would not eliminate the requirement for Internal Audit to perform price reviews, which is currently required for any sole source procurements over \$50,000. Sole source procurements may be used only under specific circumstances, such as (1) when the item is available only from a single source; (2) the public exigency or emergency for the requirement exists which will not permit a delay resulting from competitive solicitation; (3) after solicitation of a number of sources, competition is determined to be inadequate; and (4) FTA expressly authorizes noncompetitive proposals. In fiscal year (FY) 2022-23, 39 sole source procurements were completed. Raising the approval threshold to \$100,000 would still ensure that the Board approves about 84 percent of all contract dollars procured through sole source procurements.

To keep the Board informed of all OCTA's high-dollar value procurements, staff proposes adding a list of procurements valued above \$250,000 to \$500,000 to the quarterly procurement report. This report will provide the Board with an opportunity to review the procurement activity that occurred over the past three months, as well as give the Board a preview of what procurements and solicitations are being planned for the next quarter.

Other small-dollar non-Board threshold increases are also being recommended as shown on Attachment A. These recommended thresholds are lower than the thresholds set by the Federal Acquisition Regulation.

All four industry groups unanimously supported the above recommendations, which are in line with the objective of improving the efficiency and responsiveness of the procurement process and expediting project delivery.

While staff has compiled a set of additional proposed adjustments to the Procurement Policies and Procedures, these changes are currently in the process of being evaluated. Changes related to implementing a piggybacking policy, the post-award protest policy, option-term approvals, maximum contract terms, blackout periods, small or local business preferences, and the threshold for staff presentations at Board committees have all been discussed with the vendor community. Staff will continue to research the practices of peer agencies before making any recommended changes to these policy items. Staff will present these additional recommended changes, if any, to the Board for future consideration after further evaluation.

Summary

A procurement workshop was held for the Board to discuss and comment on possible changes to the procurement process. The issues raised from the workshop and potential solutions were reviewed with four professional industry organizations. The Board is requested to approve these proposed revisions to OCTA's Procurement Policies and Procedures and direct staff to implement the changes.

Attachments

- A. Recommended Changes to the Orange County Transportation Authority's Procurement Policies and Procedures
- B. Contracts by Dollar Amounts for Past Three Fiscal Years

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