

Department PURCHASING	Subject SOLE SOURCE AND NONCOMPETITIVE PROCUREMENTS – Non-Federally and Non-Grant Funded Procurements
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I. PURPOSE

To establish procedures for justified sole source or noncompetitive procurements that are in accordance with Pace's Ordinance 15-21, Regulations Governing Public Bidding as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06).

II. DEFINITIONS

For purposes of this procedure, the following definitions apply:

- A. Requesting Department - the department, organizational unit or personnel who identify the need for materials, supplies or services and initiates the procurement process by completing a Purchase Requisition.
- B. Sole Source - characterized as the one and only source based on a vendor's unique capability or availability.
- C. Single Bid or Proposal - when Pace receives a single bid or proposal in response to a competitive solicitation over the Micro Purchase limit (those procurements that exceed \$3,000).
- D. Brand Name References - referencing an item by brand name when it is impractical or uneconomical to make a clear and accurate description of the technical requirements.
- E. Salient Characteristics - those qualities of an item that are essential to ensure that the intended use of the item can be satisfactorily realized; the term is mainly used in connection with a brand-name-or-equal description.
- F. OEM – the Original Equipment Manufacturer who made the equipment.
- G. Brand Name Restriction – limiting competition by only allowing bids or proposals for specific brand name(s) or OEM item(s).
- H. Emergency Requisition - requisitions for the immediate delivery of materials and supplies which are required to ensure the continuation of safe and economical transportation services, based on public exigency, and/or ensures the immediate safety of staff, passengers, or the public.
- I. Purchase Requisition - procurement information that is entered in the Oracle system communicating the need for acquisition of goods or services.

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- J. Not Funded with Federal or Grant Funds - any contract for which the present and future funding source will not include federal funds, State of Illinois grant funds or RTA grant funds whether for operating or capital purposes.
- K. Independent Cost Estimate - is a neutral analysis, assessment, and quantification of all costs and risks associated with a procurement, using a method independent from the prospective offerors in advance of the offer, which shall be based on programmatic and technical specifications provided by the Requesting Department with primary responsibility for the program's development or operation.
- L. Noncompetitive Procurement - when other than full and open competition exists and there is some level of restriction on competition.

III. SCOPE

This procedure applies to purchases of all Pace operating or capital equipment, supplies, or services that exceed \$3,000, and are **not** funded with federal funds or grant funds. See PC-16-A for procedures for handling sole source or noncompetitive procurements utilizing federal funds and/or grant funds.

IV. POLICY

Normally, Pace must provide for full and open competition when soliciting bids or proposals. Pace's Ordinance SBD 15-21 as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06), however, acknowledges that under certain circumstances, Pace may conduct procurements without providing for full and open competition.

These exceptions outlined in the RTA Act and Pace's Procurement Ordinance include:

- A. Acquisition of repair parts, accessories, equipment or services previously furnished or contracted for through the original equipment manufacturer (OEM) or OEM's reseller.
- B. Immediate delivery of supplies, material or equipment or performance of service when it is determined by the Executive Director that an emergency requires immediate delivery or supply thereof.
- C. Goods or services economically procurable from only one source.
- D. Contracts for the maintenance or servicing of equipment which are made with the

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manufacturers (OEMs) or authorized service agent of that equipment where the maintenance or servicing can best be performed by the manufacturer or authorized service agent or such a contract would be otherwise advantageous to Pace, except that the exceptions in this clause shall not apply to contracts for plumbing, heating, piping, refrigeration and automatic temperature control systems, ventilating and distribution systems for conditioned air, and electrical wiring.

- E. Goods or services procured from another governmental agency.
- F. Acquisition of utility services.
- G. Purchase of service agreements or other contracts, purchases or sales entered into by Pace with any public transportation agency or unit of local government.
- H. Upon receiving a single bid or proposal in response to a solicitation, Pace should determine if competition was adequate. If the competition can be determined adequate, competition requirements will be fulfilled, and the procurement will qualify as a valid sole source. If competition is deemed to be inadequate Pace will have to revise these specifications or other requirements and re-bid/re-solicit for these items or services.
- I. Pace may limit the number of sources from which it solicits bids or proposals when Pace has such an unusual and urgent need for the items or services that Pace would be seriously injured unless it were permitted to limit the solicitation. Pace may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the items or services.
- J. Once Pace awards a contract, a permissible extension of the contract term length will require a sole source justification along with an ICE and a cost in lieu of or in addition to a price analysis as with all other sole source/noncompetitive actions.
- K. Brand name restrictions if determined as being advantageous to Pace with regard to integration with existing equipment, systems or facilities shall be allowed only if supported by adequate documentation indicating a sound business rationale for the brand name restriction. Brand name supplies, equipment and services commonly available from more than one source will be competitively bid. In such case the procurement will be considered a noncompetitive procurement governed by this procedure.

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V. SOLE SOURCE AND NONCOMPETITIVE PROCUREMENT PROCEDURES

When less than full and open competition is available to Pace, Pace shall:

- A. Conduct a cost and price analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit. Pace, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. This cost and/or price analysis shall be included in the procurement file. In limited situations, where no federal ~~or State of Illinois~~ ~~of RTA grant~~ funds are utilized, the cost analysis requirement may be waived. There needs to be a sound business reason and justification and this waiver must be approved by the Department Manager, Purchasing (or the Department Manager, Materials Management for those procurements handled by the Materials Management Department).
- B. If Pace decides to solicit an offer from only one source, a complete and thorough Sole Source Justification Form shall be completed by the Requisitioning Department and submitted to the Purchasing Department with the Purchase Requisition through the Oracle iProcurement system. This sole source justification must have all applicable approvals and will be fully evaluated by the Purchasing Department. It is the sole right and responsibility of the Purchasing Department to reject or approve sole source justifications based on the requirements of Pace Ordinance SBD 15-21, Regulations Governing Public Bidding as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06) as amended.
- C. If Pace receives only one responsive and responsible bid during the procurement process, the Purchasing Department will conduct a Single Source/Single Bid Analysis (and complete a *Single Source/Single Bid Analysis* form) and determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.
 1. Adequate Competition - If Pace determines that competition was adequate, we will proceed with award. Competition will be deemed to be adequate when the reasons for few responses were caused by conditions beyond Pace's control. Many unrelated factors beyond Pace's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, Pace's competition requirements will be fulfilled, and the procurement will

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qualify as a valid competitive bid.

2. Inadequate Competition – Pace will deem competition to be inadequate when, it is caused by conditions within Pace’s control. For example, if the specifications used by Pace were unduly restrictive, competition will be inadequate. In this situation, Pace would have to revise these specifications or other requirements and re-bid/re-solicit for these items or services.
- D. In the case of Brand Name Restricted procurements, solicit offers from as many potential sources as is practicable under the circumstances. Additionally, a fully approved brand name restriction justification memorandum must be completed and included in the procurement file. The same Department Manager or Budget Authorities who sign off on the sole source justification must sign off on this memorandum. Conduct a price analysis in lieu of a cost analysis if multiple bids are received.
- E. Special Requirements for Emergency Requisitions - Standard competitive bidding and normal internal approval processes are not required for the processing of emergency requisitions. Therefore, a fully justified emergency procurement that is authorized by the Executive Director will not require the “Red” or “Green” Folder or Board approval processes.

If Requesting Departments have a justified emergency as defined by Section IV above, Requesting Departments must obtain the following signed approvals:

<u>Headquarters</u>	
Purchase Amount	Approval Required
In excess of \$40,000	Executive Director (prior to processing by the Purchasing Department)
\$40,000 and under	Appropriate Deputy Executive Director, Officer, or Department Manager

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<u>Divisions</u>	
Purchase Amount	Approval Required
In excess of \$40,000	Deputy Executive Director, Revenue Services <u>and</u> Executive Director (prior to processing by the Purchasing Department)
\$1,000 to \$40,000	Deputy Executive Director, Revenue Services or appropriate Division Manager*
Less than \$1,000	Division Manager with written notification to the Deputy Executive Director, Operations

* Approval required is determined by the item that is being purchased.

Emergency requisitions will be given priority by Purchasing and the Requesting Department must notify Purchasing that an Emergency has been declared.

The Requesting Department shall secure the signatures as outlined above on the hard copy of the Purchase Requisition as well as submit a fully approved sole source justification. The sole source justification attached to the Purchase Requisition must indicate that the items/services being procured are being processed as an emergency.

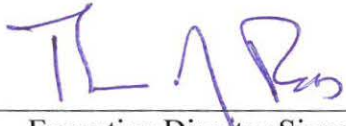
For those procurements exceeding \$40,000, a follow up report must be submitted to Pace’s Board of Directors within 5 working days after contract award.

Whenever any change order to an emergency procurement is issued, Pace will adhere to similar procedures. The Requesting Department shall secure the signatures as outlined above, including that of the Executive Director, on the hard copy of the Change Order Requisition regardless of dollar amount of the Change Order.

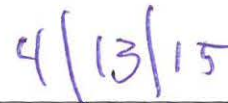
Caution should be exercised when issuing change orders against these emergency procurements and shall have limits as they would if they were approved by the Pace Board or were reported to the Board through the “green folder” process. Therefore, a change order issued against an emergency procurement cannot exceed 10% of the original contract value or \$40,000 (whichever is greater) without the Executive Director’s prior approval and another report would need to be submitted to the Board.

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See *Purchasing Department Roles and Responsibilities – Operating Manual* for applicable forms (i.e., *Single Source/Single Bid Analysis* form, *Sole Source Justification* form, etc.)



Executive Director Signature



Date