

RESOLUTION NO. 21-16

A RESOLUTION OF KITSAP TRANSIT BOARD OF COMMISSIONERS
AUTHORIZING A CHANGE TO KITSAP TRANSIT'S PROCUREMENT POLICY IN
THE EVENT OF AN EMERGENCY

WHEREAS, the Board of Commissioners approved a comprehensive revision of Kitsap Transit's procurement policies and procedures in 2015 via Resolution 15-65 to ensure compliance with federal and state requirements and to improve its procurement processes; and

WHEREAS, procurement policy oversight and authority to amend its policies resides with Kitsap Transit's Board of Commissioners; and

WHEREAS, Kitsap Transit staff will periodically propose changes for the Board of Commissioners consideration and approval to improve procurement policies or comply with federal and state requirements; and

WHEREAS, staff is recommending an addition to the procurement policy authorizing Kitsap Transit Directors the authority to suspend competitive bidding requirement in the event of an emergency; and

WHEREAS, in accordance with RCW 39.04.280, competitive bidding requirements may be waived by the governing body of a municipality in the event of an emergency; and

WHEREAS, RCW 39.04.280 further defines an emergency to be an unforeseen circumstance beyond the control of the municipality that either presents a real, immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken, and

WHEREAS, for further clarification of the definition of an emergency, an emergency does not require an emergency declaration by state, federal or local authorities, and

WHEREAS, an emergency may include, but is not limited to, a catastrophic event such as an earthquake, a severe event with a Marine Services vessel, or initial onset of a pandemic or pathogen; and

WHEREAS, the purchase of goods or services by a department director under circumstances fitting the definition of an emergency must be executed with concurrence or delegation of authority of Kitsap Transit's Executive Director or, in the event the Executive Director is unavailable, the department director in charge in accordance with Kitsap Transits Emergency Response Chain of Command, and

WHEREAS, the Executive Director or in-charge department director must inform the Board Chair or Vice-Chair of the emergency circumstance and status as soon as reasonably possible but not to exceed a twenty-four (24) hour period, and

WHEREAS, Kitsap Transits Executive Director must report out emergency purchases or contract awards in excess of the Executive Directors authority level, currently one hundred thousand dollars (\$100,000), at the next scheduled regular meeting of the Board of Commissioners, and

NOW THEREFORE, BE IT RESOLVED the Board of Commissioners hereby approves changes to Kitsap Transit's procurement policies regarding the exemption of competitive bidding requirements and delegation of authority during an emergency as red-lined and incorporated by reference herein as Exhibit A

ADOPTED by the Kitsap Transit Board of Commissioners at a regular meeting held on the 2nd day of February, 2021.



Robert Putaansuu, Chairperson

ATTEST:



Jill A. Boltz, MMC
Clerk of the Board

Exhibit A

KITSAP TRANSIT PROCUREMENT POLICIES

Policy 01 –Approval Authority

Purpose

To establish proper approval thresholds for Kitsap Transit purchases and contract obligations.

DOLLAR LIMIT ^{(1) (2)}	APPROVAL REQUIRED
<\$25,000	<ul style="list-style-type: none">• Department Director
\$25,000 – \$100,000	<ul style="list-style-type: none">• Department Director• Executive Director
>\$100,000 ^{(3) (4) (5) (6) (7)}	<ul style="list-style-type: none">• Department Director• Executive Director• Board of Commissioner Approval

- (1) Limit amounts include sales tax and shipping costs.
- (2) In the case of multi-year agreements, the limit amounts reflect Kitsap Transit’s maximum annual expenditure or obligation. In the event of multi-year contracts with indefinite quantity or service commitments in future years (e.g. unit price or task order contracts), staff is not required to seek reauthorization with the Board of Commissioners subsequent to the initial award of the contract provided the board approved budget incorporates the anticipated expenditures each year.
- (3) In the case of board approved contracts with options to extend the term of the agreement, the Executive Director or designee may exercise those options without authorization of the Board of Commissioners provided the board approved budget incorporates those approximate expenditures.
- (4) In the event expenditures are expected to exceed initial approval of the Board of Commissioners by greater than 10%, reauthorization of amounts exceeding, or expected to exceed, initial authorization must occur at the next available Board of Commissioners meeting. If timing is critical and reauthorization cannot wait until the next Board of Commissioners meeting, the Executive Director has authority to authorize additional expenditure amounts with concurrence of the Board Chairperson.
- (5) The Board of Commissioners delegate authority to the Executive Director with concurrence of the Chairperson of the Board (Vice-Chairperson in the absence of the Chairperson) to approve change orders for vessel repairs or services. The authority delegated to the Executive Director, with concurrence of the Board Chairperson, is not restricted by amount or scope. The authority delegated to the Executive Director is limited to operating repairs. Change orders related to vessel builds or improvements accounted for as an addition to Kitsap Transit fixed assets are excluded from this delegation authority.
- (6) Revenue contracts or lease agreements greater than \$50,000 annual revenue require authorization of the Board of Commissioners.
- (7) Staff must seek authorization from the Board of Commissioners to formerly advertise a competitive bid if the service or product exceeds \$500,000 or is not included within the board approved budget.

Policy 02 – Delegation Authority

Purpose

To delegate authority to execute agreements or obligate Kitsap Transit to purchase goods or services subsequent to receiving proper authorization.

DOLLAR LIMIT	DELEGATION AUTHORITY	MORE INFORMATION
<\$5,000	<ul style="list-style-type: none"> • Purchase - Procurement Department • Execution of Agreement - Department Director 	Section 2
>\$5,000	<ul style="list-style-type: none"> • Purchase – Procurement Department • Execution of Agreement - Executive Director (or his/her designee) 	Section 3
Open Purchase Orders	<ul style="list-style-type: none"> • Open purchase orders may not exceed \$5,000 • Maximum delegated purchase authority of department employees of \$500 set by each department director • Purchases exceeding \$500 cumulatively must be made with a requisition with proper department director authorization rather than an open purchase order. 	Section 1.2.2
Credit Card Purchase	<ul style="list-style-type: none"> • Directors and select employees • Credit card expense reports require the authorization of the department director or the executive director 	Sections 1.6
<u>Emergency Purchase</u>	<ul style="list-style-type: none"> • <u>The Executive Director, or Director in Charge in accordance with Kitsap Transits Emergency Response Chain of Command, has authority to make, or delegate authority to make, emergency purchases of any amount necessary to respond to or mitigate the loss or damage to property, bodily injury, or loss of life and restore essential functions of the agency as a result of an emergency.</u> • <u>Emergency purchases are exempt of competitive bidding requirements in accordance with RCW 39.04.280</u> • <u>Emergency purchases do not require a declaration of state, federal, or local authorities</u> • <u>The Executive Director must report purchases or contract awards in excess of the Executive Directors authority level at the next scheduled regular meeting of the Board of Commissioners</u> 	<u>Section 1.18</u>

Policy 03 – Procurement Method

Purpose

To establish procurement method thresholds to most effectively achieve fair and open competition while ensuring that Kitsap Transit receives fair and reasonable value from the most qualified, responsible vendor or service provider.

DOLLAR LIMIT	METHOD	PROCESS	MORE INFORMATION
<\$3,000	Micro Purchase	Fair & Reasonable Documentation	Section 2
\$3,000 – \$50,000	Small Purchase (Excluding Roster Lists)	Three Written Quotes provided by requesting department	Section 3
\$50,000 - \$100,000	Small Purchase (Excluding Roster Lists)	Procurement Department Provides Three Written Quotes	Section 3
<\$100,000	Small Works / Consulting Services Rosters	Applicable Roster Process	Section 8
>\$100,000	Formal Competitive Procurement	Invitation for Bid or Request for Proposal	Sections 4
>\$100,000	Architectural & Engineering	Formal A&E procurement process	Section 7
N/A	Sole Source	<ul style="list-style-type: none"> • Justification Documentation • Cost Analysis 	Section 6
N/A	Emergency Purchase	<ul style="list-style-type: none"> • A real, immediate, and extreme threat to the proper performance of essential functions • May reasonably be expected to result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken • Must be reported to the board at next regular meeting 	Section 1.18
N/A	Revenue Contract or Lease Agreement	<ul style="list-style-type: none"> • Contract or lease agreement must reflect market rates • Bid solicitation is not required for lease agreements • Federally funded assets must comply with applicable federal restrictions 	Section 11

Policy 04 – Complaint Policy / Protest and Appeal Policy

A. Purpose

To establish policies for vendor or service provider complaints and protests to ensure fair and open competition.

B. Complaint Policy

Who May Submit a Complaint

A potential bidder demonstrating a substantial economic interest in Kitsap Transit's competitive bid process.

Timing of Complaint

Complaints must be received five business days prior to bid response deadline.

Basis of Complaint

Complaints must be based on the following criteria:

1. The solicitation unnecessarily restricts competition
2. The solicitation evaluation process is unfair or flawed
3. The solicitation requirements are insufficient to prepare a response

Complaint Form and Content

1. Complaints must be in writing
2. Complaints must be addressed to the Purchasing Coordinator
3. Complaints must clearly articulate the basis for the complaint
4. Complaints must include proposed remedy

Kitsap Transit Response to Complaint

The Purchasing Coordinator will respond to complaints in writing within three business days of receipt.

C. Protest and Appeal Policy

Who May Protest or Appeal

A potential bidder demonstrating a substantial economic interest in Kitsap Transit's competitive bid process.

Timing of Protest

A protest must be filed within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner.

Basis of Protest

Protests must be based on the following criteria:

1. A matter of bias, discrimination, or conflict of interest
2. Non-compliance with procedures described in the procurement documents
3. Error in computing scores

Protest Form and Content

1. Protests must be in writing
2. Protests must be addressed to the Purchasing Coordinator
3. Protests must clearly articulate specific grounds for the protest and include supporting documentation
4. Protests must include proposed remedy

Protest Procedure

A protest must be filed with Kitsap Transit's Purchasing Coordinator within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner. Upon receipt of a timely written protest, the Purchasing Coordinator will consider the protest in accordance with established procedures and issue a written decision within five business days stating the reasons for the action taken and informing the allegedly aggrieved vendor or service provider (Protesting Vendor) of his/her right to appeal the decision.

Appeal Procedure

An appeal must be filed within five business days of the Purchasing Coordinator decision. The Finance Director and an independent Department Director will consider the appeal and issue a written decision within five business days informing the Protesting Vendor of his/her right to further appeal the decision.

In the event the Protesting Vendor elects to continue the appeal process, a request for a second appeal must be filed within five business days of the decision of the first appeal. The Executive Director will consider the appeal and issue a written decision within ten business days. The decision of the second appeal will be final and conclusive.

Failure to Comply with Requirements

Failure to comply with the protest and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof.

Protests to the Federal Transit Administration

The protesting vendor may only appeal to the Federal Transit Administration pursuant to violations of federal law or regulation.

Exhausted Administrative Remedies

A Protesting Vendor may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protesting Vendor rights, if any, to commence litigation.