

Resolution No.: 19-27 | Procurement**Responsible Department:** Finance and Accounting**Effective Date:** June 18, 2019**Supersedes:** October 16, 2018 (Res. 18-41)**Personnel Covered:** All Employees**POLICY STATEMENT**

It is the policy of the Phoenix-Mesa Gateway Airport Authority (“PMGAA” or “Authority”) to purchase goods and services in such a manner that promotes fiscal responsibility and efficiency, in accordance with this policy’s terms and conditions.

PURPOSE

This policy’s purposes are to obtain competitive pricing in PMGAA procurements, to authorize exceptions in specific situations, and to provide reasonable controls and accountability to PMGAA’s Board of Directors.

DEFINITIONS

A.R.S.: Arizona Revised Statutes, as amended from time to time.

A/E (Architect or Engineer) Professional Services: Services performed by a registered professional licensed by the Arizona State Board of Technical Registration architect or engineer, including architectural, engineering, or other services associated with research, planning, development, design, construction, surveying, alteration, or repair of buildings and other improvements to real property.

Alternative Project Delivery Method: These methods contemplate that the contractor will be selected based on qualifications—not low bid. Alternative methods include design-build, construction manager at risk, job order contracting and any method required by federal funding.

Award: A determination by the PMGAA to enter into a contract with one or more respondents. An award precedes execution of a contract.

Bid: The response submitted by a bidder to an Invitation for Bids. The response to a Request for Proposals is called a proposal or offer.

Bidder: A person or company submitting a bid.

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Board of Directors/Board: The members who jointly oversee the activities of PMGAA, a joint powers airport authority. The Authority is comprised of the Cities of Mesa, Phoenix, and Apache Junction, Towns of Queen Creek and Gilbert, and the Gila River Indian Community.

Capital Improvements: A new building or structure, or additions to or alterations of existing buildings or structures, or other improvements to real property as further defined in the budget or capital improvement program policy.

Competitive Procurement: The process of publicly soliciting bids or proposals to select the best provider of materials, equipment, services, concessions, or construction. Methods of competitive selection include Request for Quotations, Request for Proposals, Invitation for Bids, Requests for Qualifications, and cooperative contracts (with other agencies) that were competitively procured one of these ways.

Competitive Bidding: The process of soliciting bids from bidders, which may result in an award to the lowest responsible, responsive bidder. For purposes of this policy, either PMGAA or a cooperating agency may conduct competitive bidding.

Contract: All types of written agreements, regardless of what they may be called, for the procurement of materials, equipment, services, concessions, or construction. The Authority shall never enter into an oral contract.

Cooperative Purchasing: A competitively bid procurement conducted by, or on behalf of, or utilized by another governmental agency or procurement unit.

Emergency Purchase: Any purchase necessary for the immediate benefit of the public health, safety, or welfare and for which compliance with established procurement procedures is impracticable or contrary to the public interest.

Executive Director/CEO: The Chief Executive Officer of the Airport reporting to PMGAA's Board of Directors. The Executive Director/CEO has responsibility to manage, operate, and maintain Phoenix-Mesa Gateway Airport.

General Services: By contrast to professional services, general services are provided primarily through semi-skilled labor.

IFB: Invitation for Bid. The IFB consists of all documents, including those attached to or incorporated by reference, utilized for soliciting bids where price is the sole consideration for the award.

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Interested Person: A person that is an actual or prospective bidder or proposer with a direct economic interest affected by the award or failure to award the contract at issue. Neither a subcontractor nor a supplier is an “interested person.”

Intergovernmental Agreement: An agreement with another public agency in accordance with A.R.S. 11-952.

Micro-purchase: The purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold as set by the Federal Acquisition Regulation at 48 CFR, including any exceptions thereto, as applicable to PMGAA.

PMGAA: Phoenix-Mesa Gateway Airport Authority.

Procurement Coordinator: The PMGAA employee with specific responsibility for overseeing procurement of materials, goods, and services valued over \$5,000.

Professional Services: Professional services are rendered by members of a recognized profession or by persons possessing a special skill. These services include advertising, appraisers, architects, attorneys, consultants, certified public accountants, planners, environmental studies, financial and operational audits, personnel and benefits studies, land surveyors, landscape architects, renewals of proprietary computer hardware and software licensing, trainers, and other licensed professionals.

Proposal: A proposal is an offer submitted by a vendor in response to a solicitation.

Protest: A formal objection that arises during the procurement process asserted by an interested person.

Protester: An interested person that objects to a solicitation or award.

Publicly Accessible Procurement Source: A public source to establish market value of used equipment.

Purchaser: PMGAA or another agency that acquires goods, professional services, other services, or construction on behalf of an organization.

Purchasing Director: A PMGAA employee responsible for and authorized to administer day-to-day procurement activities under this Board Policy and applicable law.

Quote: An informal purchasing process that results in obtaining pricing information from several sources, including publicly posted or advertised pricing.

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Quotation: A statement of price, terms of sale, and description of goods or services offered by a vendor to a prospective purchaser.

Responsible Bidder/Proposer: A person who is licensed (if required), who complies with all of the requirements of law, the solicitation, and proposed contract, and who possesses the experience, resources, financial and technical capacity, and everything else necessary to perform the contract.

Responsive Bid: A bid or proposal that fully conforms in all material respects to the IFB/RFP and all of its requirements.

RFP: Request for Proposals. The RFP consists of all documents, including those attached or incorporated by reference, utilized for soliciting proposals.

RFQ: Request for Qualifications. The RFQ consists of all documents, including those attached to or incorporated by reference, utilized for soliciting statements of qualifications.

Services: Includes A/E, professional and general services.

Solicitation: An Invitation for Bid (IFB), Request for Proposals (RFP) or Request for Qualifications (RFQ) issued by PMGAA or another agency or procurement unit.

Vendor: A seller or supplier of goods and services.

I. CONFLICT OF INTEREST STATEMENT

Employees conducting business on behalf of PMGAA have a responsibility to do so in a manner that is objective and ethical. The goal of all such business dealings must be to benefit PMGAA. The following policies apply:

1. No employee, officer, agent or outside firm may participate in the preparation, selection, award, or administration of a solicitation or contract if he or she has a real or perceived conflict of interest.
2. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
3. The acceptance of gifts, money, or gratuities from any person or organization is prohibited except as provided below. PMGAA employees, officers or agents will

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be guided in interpretation of this section by the distinction between a gift, gratuity, or favor given or received which has significant monetary value and is offered or accepted in expectation of preferential treatment, and an expression of courtesy.

- a. Employees, officers or agents may not accept cash in any form.
- b. It is recognized that employees, officers and agents must conduct a certain amount of Airport business with non-Airport employees during meals, or occasionally during entertainment events. An employee, officer or agent may accept items valued at or below \$50.00, such as business meals and/or entertainment tickets when, in the employee's, officer's or agent's judgment, such offers are made in the normal course of Airport business, they benefit and advance positive working relationships and PMGAA interests, they are the usual standard of the industry, and it is not appropriate to decline.
- c. This policy is not meant to preclude the acceptance of:
 - (1.) Free attendance or participation at official or quasi-official functions such as groundbreaking, open houses, award ceremonies, banquets or similar events which the employee, officer or agent attends in the capacity as a PMGAA employee; or
 - (2.) Free meals and/or entertainment that are part of such programs or functions;
 - (3.) Gifts of nominal value such as promotional items such as calendars, note pads, and pens.
4. Any contract entered into in violation of this policy is voidable or subject to cancellation at the option of the Purchasing Director. Employees, officers and agents who violate PMGAA's conflict of interest policy will be subject to disciplinary action, as set forth in PMGAA's Personnel Rules.
5. If an employee, officer or agent has any questions concerning this policy or is in doubt as to what is considered appropriate, he/she is directed to contact PMGAA's Procurement Coordinator.

II. RESPONSIBILITY FOR PURCHASING

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- A. PMGAA's Chief Financial Officer shall serve as Purchasing Director. The Purchasing Director shall direct all purchases of goods and services made by or on behalf of PMGAA. The Purchasing Director may delegate purchasing functions to authorized PMGAA employees.
- B. Department Directors must ensure that their employees comply with this policy.
- C. The Purchasing Director shall establish procedures necessary to effectively implement this policy.
- D. Under the Purchasing Director's oversight, the Accounting Department shall maintain documentation sufficient to detail the history of procurements for audit purposes and for compliance with records-retention requirements. All procurement records must be maintained and disposed of in accordance with PMGAA's records-retention schedule.
- E. PMGAA, alone, will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve PMGAA of any contractual responsibilities under its contracts.

For Federal procurements, the Federal awarding agency will not substitute its judgment for that of PMGAA unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

III. GENERAL

- A. PMGAA shall award contracts only to responsible vendors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as vendor integrity, compliance with public policy, record of past performance, and financial and technical resources. Solicitation documents shall outline additional requirements for award considered by PMGAA. PMGAA shall not award Federally funded contracts to any vendor that is listed on the government wide exclusions in the System for Award Management (SAM).
- B. PMGAA will conduct all procurement transactions in a manner providing full and open competition consistent with the standards of this policy.

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For procurements funded in full or in part by a Federal agency:

1. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements.
 2. PMGAA shall ensure, to the fullest extent possible, enough qualified sources are notified of the procurement opportunity to ensure maximum open and free competition. PMGAA shall not preclude potential bidders from qualifying during the solicitation period.
 3. PMGAA shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.
 4. Nothing in this section preempts state licensing laws.
 5. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
 6. PMGAA will maintain a list of interested persons, firms or products which are used in acquiring goods and services. Such list shall be kept current, to the extent possible, and include enough qualified sources to ensure maximum open and free competition.
- C. PMGAA will avoid acquisition of unnecessary or duplicative items by ensuring the need and use of goods and services. Staff will review existing procurement contracts to ensure that the procurement will not be duplicative. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase, however, will not circumvent the requirement of Section V(A)(1) of this policy. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- D. In accordance with Title 49 Code of Federal Regulations Part 26, Disadvantaged Business Enterprise (DBE) and Part 23, Airport Concession DBEs (ACDBE), PMGAA

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- has established a DBE and ACDBE program, approved by the FAA, taking all necessary affirmative steps to assure that minority businesses, women' and small business concerns (SBC) have equal and fair opportunity to participate in procurements where they meet the stated requirements and goals established.
- E. PMGAA encourages the use of recovered materials. For procurements funded in full or in part by a Federal agency for items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 and where the item being procured exceeds the threshold set at 2 CFR Part §200.322, PMGAA will procure that item from recovered materials, when possible or practicable, consistent with maintaining a satisfactory level of competition. Further, PMGAA will follow this policy when the value of the quantity acquired during the preceding fiscal year exceeded the dollar threshold set. At the time of publication of this Policy, the threshold is \$10,000.
- F. PMGAA's solicitation documents and contracts shall contain the required provisions as set forth in the FAA's "Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects", regardless of funding source.

IV. PURCHASING AUTHORIZATIONS

The Executive Director/CEO will delegate purchasing authorizations, including spending limits, to designated PMGAA staff at the beginning of each fiscal year, as required by current PMGAA Operating Policies and Procedures.

Once designated by the Executive Director/CEO, defined staff will be authorized for that fiscal year to approve purchasing commitments with PMGAA vendors at the spending limits set forth by the Executive Director/CEO. Spending limits will be set to meet the typical needs associated with certain airport requirements, staff functions, and staff responsibilities.

Except as provided in this policy, purchases or contracts that exceed \$50,000 may not be awarded without the Board's prior approval.

V. TYPES OF PURCHASES**A. General Applicability**

1. Purchases may not be intentionally divided between multiple, separate procurements to circumvent this policy's requirements.

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2. No purchase may be made without proper authorization.
3. When purchasing materials and general services eligible for reimbursement under a federal or state grant, PMGAA shall ensure compliance with all applicable laws, regulations, and grant assurances.
4. If, after adequate advertising of a solicitation, only one bid, proposal or statement of qualifications is received the Purchasing Director or designee will:
 - a. Confirm that the specifications of the IFB, RFP or RFQ were not overly restrictive. If deemed nonrestrictive, the Purchasing Director or designee shall perform a cost or price analysis to ensure the pricing received is in line with expected services and, if in line, proceed to award the contract following the guidelines set forth in this Policy.

If the solicitation is deemed restrictive, the department requesting the procurement must submit a sole source justification to the Purchasing Director for consideration before contract award.

OR

- b. Cancel the solicitation.

The procurement file shall be documented with sufficient information detailing the procurement history.

B. Federally Funded Procurements

Any procurement funded in full or in part by a Federal agency will adhere to the following purchasing methods:

1. Purchases under the Micro-purchase threshold. Except as required by applicable law, so long as the micro-purchase threshold exceeds \$5,000, purchases under the micro-purchase threshold shall be purchased in accordance with the procedures set forth in Section V (C).
2. Purchases between the Micro-purchase threshold and \$50,000. Unless otherwise outlined within this Policy, for purchases of services, supplies, or other property that is equal to or will exceed the Micro-purchase threshold but does not exceed \$50,000, the authorized employee will obtain at least three price or rate quotes from qualified sources for the same or substantially similar items or

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services. If, after solicitation of a number of sources, competition is determined inadequate and three quotes are not available, the employee shall obtain as many quotes as are reasonably available. The employee shall document the procurement file explaining why three quotes/proposals were not obtained. Oral quotes, published advertisements, catalogues, and online web pricing will satisfy this requirement.

3. Purchases in excess of \$50,000. For purchases that will exceed \$50,000, the Purchasing Director shall require a formal competitive procurement process, except as otherwise provided in this Policy.
 4. Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source. PMGAA may only use this procurement method when one or more of the following circumstances apply:
 - a. The item is available only from a single source;
 - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from PMGAA; or
 - d. After solicitation from a number of sources, competition is determined inadequate.
 5. For procurements of services other than A/E services and Alternative Project Delivery Methods, PMGAA shall not use the competitive selection process of a Request for Qualifications (RFQ).
- C. Non-Federally Funded Procurements: Purchases of Products, Materials, Equipment, and General Services
1. Purchases under \$5,000. For purchases under \$5,000, PMGAA may obtain the products, materials, equipment, or general services as needed without further formality. Multiple quotes are not required for procurements up to \$5,000. However, the authorized employee must ensure that the procurement is made consistent with sound business practice and that PMGAA receives the best value.

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2. Purchases between \$5,000 and \$50,000. Unless otherwise outlined within this Policy, for purchases of products, materials, equipment, or general services that will exceed \$5,000 but not exceed \$50,000, the authorized employee shall obtain at least three written price quotes for the same or substantially similar items or services. If, after solicitation of a number of sources, competition is determined inadequate and three quotes are not available, the employee shall obtain as many quotes as are reasonably available. The employee shall document the procurement file explaining why three quotes/proposals were not obtained. Oral quotes, published advertisements, catalogues, and online web pricing will satisfy this requirement.
 3. Purchases in excess of \$50,000. For purchases of products, materials, equipment, or general services that will exceed \$50,000, the Purchasing Director shall require a formal competitive procurement process, except as otherwise provided in this Policy.
- D. Non-Federally Funded Procurements: A/E Professional Services and Construction
1. PMGAA shall comply with A.R.S. Title 34 to procure construction and A/E professional services.
 2. Under A.R.S. Title 34, contracts with engineers in excess of \$500,000 and contracts with architects in excess of \$250,000 require advertising and selection through an RFQ. These A/E professional services and construction projects utilizing design-bid-build, construction-manager-at-risk, and job-order contracting delivery methods must be approved by the Purchasing Director or designee before advertising.
- E. Non-Federally Funded Procurements: Professional Services (not including A/E Professional Services)
1. Purchase of professional services between \$5,000 and \$50,000. When contemplating a purchase of professional services (such as legal counsel, auditors, brokers, or other professional consultants), the authorized employee shall obtain at least three written quotes/proposals. If after solicitation of a number of sources, competition is determined inadequate and three quotes or proposals are not available, the employee shall obtain as many quotes/proposals as are reasonably available. The employee shall document the procurement file explaining why three (3) quotes/proposals were not obtained. Alternatively, the

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Purchasing Director may authorize the employee to directly select professional services as needed without further formality.

2. Purchase of professional services over \$50,000. Unless the Executive Director/CEO grants an exception, PMGAA shall procure professional services that exceed \$50,000 by competitive selection to the extent practicable, advantageous to PMGAA, consistent with sound business practices, and likely to ensure that PMGAA receives the best value and service. The Executive Director/CEO may grant exceptions upon written recommendation by the department head that competitive selection is not practicable or advantageous to PMGAA. If an exception is granted by the Executive Director/CEO and the amount for the services exceeds \$50,000 then a report will be made to the Board detailing the circumstances at the next scheduled Board meeting.

F. Purchases from Member Governments

The Purchasing Director may purchase services from or contract directly with any member government as necessary without using a competitive procurement process.

G. Excess and Surplus Property

For procurements funded in full or in part by a Federal agency, PMGAA shall utilize Federal excess and surplus property in lieu of purchasing new equipment and property, whenever such use is feasible, acceptable for the intended use, and available in the needed time frame.

H. Procurements Involving Gateway Aviation Services

PMGAA shall procure products and services for Gateway Aviation Services in accordance with this policy, with the following exceptions.

1. Fuel, oil, and other products for resale may be purchased without formality from any qualified vendor as needed to fulfill customer orders, with due regard for price.
2. Fuel trucks and related equipment and parts may be acquired, at the Purchasing Director's option, by purchase or lease from PMGAA's fuel supplier through direct negotiations with the supplier. The Board must approve any proposed purchase or lease with a value that exceeds \$50,000.

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Notwithstanding any other provision of this policy, the Purchasing Director may make or authorize other employees to make emergency procurements without following this policy if a threat to the public health, safety, or welfare exists; or if a situation exists that makes compliance with this policy problematic. All procurements completed under this Section must be conducted with as much competition as practicable under the circumstances. A written determination of the basis for the emergency must be included in the procurement file, and if the procurement exceeds \$5,000, a report explaining the emergency and the procurement's outcome must be made to the Board at the next scheduled Board meeting. If, however, the next scheduled Board meeting is not within thirty (30) days from the date of the Emergency Procurement, PMGAA staff will provide email notification to all Board members explaining the emergency and the procurement's outcome in addition to providing a report at the next scheduled Board meeting.

J. Impractical Procurements

In some cases, it is impractical to require competitive quotes or bids for products or services. In such situations and notwithstanding any other provision of this policy, the Purchasing Director may make or authorize other employees to make procurements without following this policy. Such examples include but are not limited to: matching existing furniture and fixtures, warranty service, and standardization. All procurements completed under this section must be conducted with as much competition as practical under the circumstances. A written determination of the basis for the impracticality must be included in the procurement file, and if the procurement exceeds \$5,000, a report explaining the impractical situation and the procurement's outcome must be made to the Board at the next scheduled Board meeting. If, however, the next scheduled Board meeting is not within thirty (30) days from the date of the Impractical Procurement, PMGAA staff will provide email notification to all Board members explaining the impractical situation and the procurement's outcome in addition to providing a report at the next scheduled Board meeting.

K. Purchases Excluded from Quotation/Competitive Selection Requirements

The following items are excluded from the requirement of multiple quotes or competitive selection.

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1. Sponsorships.
 2. Advertisements in magazines, newspapers, or other media.
 3. Former employees with unique knowledge contracted on a temporary or part-time basis.
 4. Publicly available training seminars and conferences.
 5. Memberships in professional associations.
 6. Works of art, entertainment, or performance (when authorized by the Executive Director/CEO or Board, as applicable).
 7. Subscriptions to trade/professional magazines or journals.
 8. Travel-related expenses as defined in the Business Travel Authorization and Reimbursement policy.
 9. Payments for regulated services, such as postage and utilities, where no practical competitive alternatives exist.
 10. Arizona Correctional Industries, Arizona Industries for the Blind, and other entities established by the state of Arizona under the set-aside program (A.R.S. 41-2636).
 11. Hardware and software licensing renewals and maintenance support.
- L. Multi-Year Contracts
1. Multi-year contracts are contracts that extend more than one (1) year in length. Multi-year contracts may have optional years specified to be exercised at PMGAA's discretion. An example of a multi-year contract is a contract for three (3) years with two (2) one (1) year options for a total of five (5) years (potentially). Multi-year contracts may not exceed five (5) years total unless approved by the Board.
 2. Board approval is required for multi-year contracts having a total cumulative value, including all options, in excess of \$50,000. Board approval for exercising the option years is not required if the Board approves the option when the contract is first approved.

VI. PROCUREMENT PROCESSES

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PMGAA may procure goods and services generally in accordance with the following selection methods. The selection method to be used for each procurement should be determined in coordination with the Purchasing Director or designee, giving due consideration to the nature and scope of the procurement, this policy, applicable laws, and any applicable grant or other funding requirements.

A. Obtaining Quotes for Purchases of Products, Materials, Equipment, or General Services

1. The authorized employee shall obtain and document quotes from at least three (3) qualified vendors for the same or substantially similar items or services. If three quotes are not available, the employee shall obtain as many quotes as are reasonably available, and the employee shall document the circumstances for the procurement file.
2. The authorized employee may receive quotes by any expedient manner, including telephone, fax, email, advertisements, catalogues, and online web pricing.
3. The authorized employee shall not reveal the amount of any quote to any competing vendor until after all quotes have been received.
4. As part of the purchase order approval process, the Purchasing Director or designee will review the quotes and may: (1) accept the quotes; (2) reject any or all quotes and re-procure; (3) request additional quotes; or (4) require a formal competitive procurement process.

B. Sole Source

When there is only one person or entity capable of providing a particular product or service, or when sole source procurement is needed to maintain program continuity or compatibility with existing equipment, these circumstances must be documented. The Purchasing Director or designee may then authorize a sole source procurement and waive the requirement for a competitive procurement process.

C. Invitations for Bid (IFB)

1. Each IFB shall describe the goods or services required and include design or performance specifications for the item or service. Such description shall not contain features which unduly restrict competition.

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2. Each IFB shall describe all requirements which offerors must fulfill and all other factors to be used in evaluating bids submitted.
3. The Purchasing Director or designee shall publicly issue and advertise each IFB. A notice inviting bids shall be published in accordance with A.R.S. 34-201 (construction) or A.R.S. 39-203 (if applicable).
4. The IFB must state the place where each bid must be submitted, the deadline for submitting bids, and the date, time, and place of the bid opening.
5. Each bid must be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bid not sealed or not received within the specified time period must be rejected.
6. All bids must be opened in public at the time and place specified by PMGAA in the IFB documents. A tabulation of all bids received will be posted on PMGAA's website.
7. The Purchasing Director or designee may reject any and all bids or parts of bids and may re-advertise and re-solicit bids.
8. The contract must be awarded to the lowest responsible and responsive bidder for a firm fixed price. In making the determination of the lowest responsible, responsive bidder, the Purchasing Director, designee or Board may consider the following:
 - a. The ability, capacity, experience, and resources of the bidder, its employees, and subcontractors to perform the contract.
 - b. The bidder's capacity to perform the contract promptly and within the time specified, without delay or disruption.
 - c. The bidder's quality of performance on previous contracts with PMGAA or with its members.
 - d. The bidder's financial, technical, and other resources to perform the contract.
 - e. The quality and adaptability of the bidder's materials, supplies, or services to the particular use required.

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9. If an award is not made to the lowest bidder, the Purchasing Director or designee shall prepare a written statement of the reasons and include this statement in the procurement file.

D. Requests for Proposals (RFP)

1. A Request for Proposal may be used when the Purchasing Director or designee determines that the product(s) or service(s) being procured cannot be evaluated by cost alone. With the use of an RFP, PMGAA may conduct oral or written discussions with proposers regarding experience, technical information, price, or other aspects of their proposals that would be beneficial.
2. Each RFP must be publicly issued and advertised in the same manner as an IFB.
3. Each RFP must state:
 - a. A clear and accurate description of the technical requirements for the material, product, or service to be procured as well as a description of the work involved, if applicable. Such description must not contain features which unduly restrict competition;
 - b. Whether cost or pricing data is required;
 - c. Whether discussions, interviews, presentations or any combination thereof, may be held with the top-ranked proposers.
 - d. Identify all requirements which offerors must fulfill in order to be considered under the solicitation;
 - e. The criteria on which an award will be based and the points that may be awarded for each criterion.
4. Proposals submitted that meet the requirements, as outlined in the RFP, shall be considered by PMGAA to the maximum extent practical.
5. The Purchasing Director, designee or the Board may reject any and all proposals or parts of proposals and may re-advertise or re-solicit proposals.
6. For an RFP, the award must be made to the responsible and responsive proposer whose proposal is determined to be the most advantageous to PMGAA and best satisfies PMGAA's needs taking into consideration the evaluation criteria in

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the RFP. PMGAA is not required to award the contract to the proposer with the lowest price. The following criteria may be considered.

- a. Price;
- b. The ability, capacity, and experience of the proposer, its employees, and subcontractors to perform the contract;
- c. The proposer's capacity to perform the contract promptly and within the time specified, without delay or disruption;
- d. The proposer's quality of performance on previous contracts with PMGAA or with its members;
- e. The proposer's financial, technical, and other resources to perform the contract;
- f. The quality and adaptability of the proposer's materials, supplies, or services to the particular use required;
- g. The number and scope of conditions attached to the proposer's offer, and the offer's conformance to all material aspects of the RFP.

7. The procurement file must contain the basis on which the award is made, including the evaluation method and evaluation criteria used for the proposals received.

E. Requests for Qualifications (RFQ)

1. A Request for Qualifications may be issued for professional services and where federal or state law requires or allows the use of a qualifications-based selection process.
2. Each RFQ must be publicly issued and advertised in the same manner as an IFB.
3. Each RFQ must state:
 - a. A clear and accurate description of the work to be performed; involved;
 - b. Whether discussions, interviews, presentations or any combination thereof, may be held with the most-qualified firms;

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- c. identify all requirements which the offeror must fulfill in order to be considered under the solicitation;
 - d. The criteria on which an award will be based and the points that may be awarded for each criterion.
 4. The contract or purchase shall be awarded based upon the criteria outlined in the RFQ and in accordance with applicable federal and state laws. The following criteria may be considered:
 - a. The ability, capacity, and experience of the proposer, its employees, and subcontractors to perform the contract;
 - b. The proposer's capacity to perform the contract promptly and within the time specified, without delay or disruption;
 - c. The proposer's quality of performance on previous contracts with PMGAA or with its members;
 - d. The proposer's financial, technical, and other resources to perform the contract;
 - e. The quality and adaptability of the proposer's materials, supplies, or services to the particular use required;
 - f. The number and scope of conditions attached to the proposer's offer, and the offer's conformance to all material aspects of the RFQ.
- F. Cooperative Purchasing Agreements

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across governmental agencies, PMGAA may, where appropriate, enter into cooperative purchasing agreements with state and local governments and other procurement units for the procurement or use of common or shared goods and services.

The Purchasing Director or Executive Director/CEO may enter into cooperative purchasing agreements with other agencies or procurement units. In most cases, a procurement process conducted by another agency will satisfy this policy. The Purchasing Director or designee shall exercise reasonable efforts to ensure that the original contract was solicited with the intent to be used for cooperative

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procurement, that the process was conducted in a manner consistent with this policy, and that the contract provides the best value for PMGAA.

G. Publicly Accessible Procurement Sources

When the Procurement Director determines it more practical and economical to purchase used heavy equipment versus new, and the amount exceeds \$50,000 in value, publicly accessible procurement sources may be utilized for establishing a market value for the equipment. The applicability of procurement methodology will be determined on an individual basis without securing multiple bids. Sources to establish market value may include, but are not limited to, auctions and classified advertisements (print and Web based).

Due to the type of purchase, the equipment must be paid for at time of sale to ensure availability. This makes Board approval prior to the purchase impractical. Therefore, PMGAA staff will subsequently make a full report to the Board, including type of equipment purchased, cost of the item, disclosure of the information utilized to establish market value and related expenses, if any.

This method benefits PMGAA both financially and operationally due to a larger pool of equipment at a less expensive costs and immediate availability.

H. Changes in Scope of Work After Contract Award

If, after a contract has been awarded and changes in the scope of work are required, PMGAA shall negotiate an amendment to the contract to be executed by PMGAA and the Bidder/Proposer. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and the Bidder/Proposer has been notified, in writing, to proceed by PMGAA. If the change in scope of work results in a contract that exceeds \$50,000 a report will be made notifying the PMGAA Board at the next scheduled Board meeting.

VII. CONTRACTS

If the original quote/proposal for services exceeds \$10,000 a contract will be executed by PMGAA and the Bidder/Proposer prior to any work commencing. The contract will detail the Scope of Work, contract dollar amount, and payment terms, along with PMGAA standard terms and conditions.

For procurements funded in full or in part by a Federal agency:

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- A. PMGAA shall, if deemed appropriate and feasible, use value engineering clauses in contracts for constructions projects of sufficient size to offer reasonable opportunities for cost reduction.
- B. PMGAA may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to PMGAA is the sum of:
 - 1. The actual cost of materials; and
 - 2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

With a time and materials contract, PMGAA will assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

- C. PMGAA shall perform a cost or price analysis in connection with procurements in excess of the Simplified Acquisition Threshold (set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, PMGAA shall make independent estimates before receiving bids or proposals.
- D. PMGAA shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- E. PMGAA will only allow costs or prices based on estimated costs for contracts under the Federal award to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for PMGAA under Subpart E—Cost Principles, of 2 CFR Part 200.
- F. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.

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- G. PMGAA's contracts will contain the applicable provisions described in Appendix II to Part 200, Contract Provisions for non-Federal Entity Contracts Under Federal Awards.
- H. PMGAA will follow the State of Arizona bonding requirements for all construction work unless, on construction work funded in full or in part by a Federal agency, the Federal agency determines that the Federal interest is not adequately protected. In such cases, the bonding requirements at 2 CFR Part §200.325 shall take effect.

VIII. OTHER

- A. Public Access to Procurement Information
 - 1. Procurement opportunities that exceed \$50,000 in value will be posted on PMGAA's website at www.gatewayairport.com under the Business| Procurements & Notices section.
 - 2. Written records pertaining to a solicitation or award of a contract or purchase order must be maintained by the Purchasing Director or designee.
 - 3. Submittals to PMGAA become public documents subject to disclosure and applicable Arizona public records laws and PMGAA published policies. Bids, proposals, statements of qualification, and all solicitation and evaluation materials (except the solicitation document itself) may not be disclosed until the final contract has been negotiated and awarded. If the proposer deems any portion of its submittal as confidential, the proposer must label each and every page of the confidential portions with: "Trade Secret", "Confidential" and/or "Proprietary." Proposers are advised that, pursuant to Arizona law, contract terms and conditions, pricing, and information which are generally available to the public are not considered confidential information. The proposer must also list each of the materials it deems confidential at the beginning of its proposal, and provide a written, detailed justification for not making such material public, along with its submittal. This justification must address, at a minimum, the specific competitive harm that may result from any disclosure, the intrinsic value of the information to the proposer, and any safeguards the proposer uses to protect the information from disclosure. PMGAA shall have the sole discretion to disclose or not disclose such material, subject to any protective order that the proposer may obtain, but it is incumbent on the proposer to assert its rights to confidentiality. By submitting a quote, bid, proposal, or statement of

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qualifications, the proposer agrees to hold PMGAA harmless from any claim arising from the release of Trade Secret, Confidential Information and/or Proprietary Information which is not clearly marked as such by the proposer or lacking written, detailed justification supported by applicable law. PMGAA shall endeavor to protect against disclosure of any trade secrets, confidential or proprietary information or data contained in a proposal, which information and data the proposer has designated as confidential. If any member of the public demands public disclosure of this confidential information, PMGAA will notify the proposer, who shall defend and indemnify PMGAA against attorneys' fees and costs incurred in the event the proposer is resisting the demand to disclose the confidential information.

B. Procurement Transparency Regulation

1. PMGAA has adopted the following transparency regulation. This transparency regulation applies to every solicitation under this Procurement Policy. The transparency regulation's purpose is to ensure that every person's solicitation-related contacts and communications with PMGAA's Board of Directors and staff (other than the Purchasing Director or his designee) occur in a public meeting in which every other interested person may participate.
2. No person may directly or indirectly contact or communicate with any member of PMGAA's Board of Directors or any PMGAA employee about any active or pending solicitation under this Procurement Policy except at the Board of Directors' regular monthly public meeting, unless the solicitation documents specifically authorize otherwise. This transparency regulation becomes effective for each solicitation immediately upon PMGAA's release of the solicitation documents or posting of the solicitation opportunity on PMGAA's website. The regulation continues in effect through any protest until the Board's public meeting at which final action on the solicitation (or protest) has been scheduled.
3. The Purchasing Director may reject the bid, proposal, statement of qualifications, or other offer of, and the Purchasing Director may disqualify, any person that directly or indirectly (through agents, subcontractors, or suppliers, for example) violates this transparency regulation. The Purchasing Director's decision to reject a bid, proposal, statement of qualifications, or other offer and to disqualify any person that violates this transparency regulation is final and non-appealable.

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4. Every person's contacts or communications with PMGAA regarding any active or pending solicitation must conform to this transparency regulation and the solicitation documents' terms and conditions. Generally, each solicitation will establish PMGAA's point of contact (typically the Purchasing Director or his designee) for purposes of the solicitation, and all persons interested in the solicitation may contact or communicate with the point of contact as specified in the solicitation documents.

IX. PROTESTS - GENERAL INFORMATION**A. Authority to Resolve Protest**

The Purchasing Director is authorized to decide any protest relating to any procurement on PMGAA's behalf.

B. Right to Protest

Any interested person aggrieved in connection with a solicitation or award of a contract may protest the solicitation or award. The protest must be filed with the Purchasing Director.

C. Confidentiality of Protest Information

All materials submitted by a protester may be disclosed to any interested person except to the extent permitted or required by law or as determined under this policy.

D. Protests Involving Federal Aviation Administration (FAA) or Arizona Department of Transportation (ADOT) Funded Projects.

For protests on FAA or ADOT funded projects, PMGAA may be required to provide information to or obtain the funding agency's approval of protest determinations. Accordingly, notwithstanding any deadline in this policy applicable to PMGAA, PMGAA is entitled to additional time as needed to comply with any grant or other agency requirements relating to a procurement dispute. Under no circumstances may the protester consider or name FAA or ADOT a party to the protest.

E. Record of Protest

PMGAA shall maintain a written record of each protest.

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- A. Any interested person aggrieved in connection with the solicitation of a contract shall protest irregularities in the IFB, RFP, or RFQ within three (3) business days from the date the protester knew or should have known of the basis for the protest and, in any case, at least five (5) business days before opening bids or the deadline for submission of proposals or statements of qualifications.
- B. All protests must be made in writing to the Purchasing Director. Each protest must state the specific factual and legal grounds on which the protest is based. The protester must also include with the protest all pertinent documents and all supporting evidence. PMGAA need not accept any protest that fails to comply with the requirements of this section. The protester's failure to timely protest specifications or other solicitation terms and conditions constitutes a waiver of the protest.
- C. If a timely protest before the bid opening or receipt of proposals or statements of qualifications is made, PMGAA may proceed with the solicitation or with the award of the contract unless the Purchasing Director determines in writing that the protest should be sustained or that an addendum addressing the protest should be issued.

XI. PROTEST OF AWARD RECOMMENDATION

- A. A protest made after the deadline for bids, proposals or SOQs, including challenges to the evaluation committee, must be submitted in writing to the Purchasing Director.
- B. A protest must be received by the Purchasing Director within five business days following public posting of PMGAA's intent of award recommendation. The formal protest must contain the following information.
 - 1. PMGAA's solicitation identification number and title.
 - 2. Name and address of the protester, the title or position of the person submitting the protest, and a statement that the protest has been authorized by the protester and the protest is made in good faith.
 - 3. A statement of all facts alleged and all rules, regulations, statutes, or constitutional provisions that entitles the protester to relief.

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4. All other information, documents, materials, legal authority, and evidence in support of the protest.
 5. A statement indicating the precise relief sought by the protester.
- C. The Purchasing Director will make a written decision on the protest within ten business days after it is received.
 - D. The Protester may appeal the Purchasing Director's decision to the Executive Director/CEO. Any appeal must be filed with the Executive Director/CEO within three (3) business days after the protester receives the Purchasing Director's decision.
 - E. The Executive Director/CEO may hear the appeal or appoint an independent hearing officer to do so. If a hearing officer is appointed, the hearing officer shall conduct an informal hearing on the appeal within 10 business days from receipt of the appeal. The hearing officer shall promptly prepare an informal decision and recommendation on the appeal for the Executive Director/CEO's consideration. The hearing officer shall promptly serve the recommendation on the protester.
 - F. Upon receipt of the hearing officer's recommendation, or if no hearing officer is appointed, the Executive Director/CEO shall decide any protest for a solicitation valued at less than \$50,000. For solicitations valued less than \$50,000 or sustained protests, the Executive Director/CEO's decision is final. For solicitations valued over \$50,000 and the Executive Director/CEO is recommending denial of the protest, the Executive Director/CEO shall make a recommendation to the Board, and the Board shall make the final decision regarding award of the contract.
 - G. Notice of the Board's final decision must be furnished to the protesting party, in writing, by the Purchasing Director.