

## PROCUREMENT PROCEDURES

### I. INTRODUCTION.

- A. Wise management of federal funds is an expectation of all grant recipients. These Procurement Procedures and associated Procurement Policies provide guidance to Metro 4/SESARM staff and are evidence of the commitment of Metro 4/SESARM and their member agencies to wise and careful stewardship of awarded grant funds and any other funds the organizations may receive.
- B. These Procurement Procedures and associated Procurement Policies have been designed to guide all procurement activities supported with federal grant funds, as required in the following, and other applicable regulatory and guidance documents for grant recipients. The U.S. Environmental Protection Agency (EPA) promulgated these regulations to incorporate various OMB circular guidance and other requirements into centralized regulatory locations:
1. Code of Federal Regulations (CFR) Title 2, Subtitle A, Chapter 2, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*;
  2. CFR Title 2, Subtitle A, Chapter 2, Part 215, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations*;
  3. CFR Title 2, Subtitle A, Chapter 2, Part 230, *Cost Principles for Non-profit Organizations*, and
  4. Terms and conditions within individual Metro 4 and SESARM financial assistance agreements with EPA.
- C. As Metro 4 and SESARM perform the tasks associated with their common mission, the organizations periodically and routinely encounter a variety of expenditure needs including those for office administration, capital equipment (rarely), non-capital equipment (occasionally), supplies, personnel services, meetings and workshops, training courses, technical air quality analyses, and other expenditures required to provide expected services to member agencies. These Procurement Procedures and associated Procurement Policies establish the process for procurement of aforementioned items and other necessities. All procurements shall have as their sole purpose support of the functions, operations, and services of Metro 4/SESARM.
- D. These Procurement Procedures are designed to be fully consistent with expectations of the Clean Air Act, federal grant regulations and guidance, and EPA policies and guidance. Should it be determined through any operational, financial, or legal analysis that these

procedures are inadequate, necessary modifications will be made in a timely manner. These procedures shall remain in force and effect unless and until further official modifications are made.

## II. DEFINITIONS.

- A. "Allocable" is a cost principle related to expenses to be paid with federal grant funds and requiring that expenses to be paid with federal grant funds meet criteria including, but not limited to, the following:
1. Expenditures shall be consistent with the mission of the grant recipient;
  2. Expenditures shall be consistent with the grant application and work plan that formed the basis of the grant award;
  3. Costs can be distributed in reasonable proportion to the benefits received; and
  4. Costs are necessary to the overall operation of the grant recipient, except where a direct relationship to any particular program or group of programs cannot be demonstrated.
- B. "Allowable costs" are costs incurred within a federally funded project that meet all federal grant requirements, limitations, and cost principles including that the costs are allocable, reasonable, and necessary.
- C. "Consensus" is defined as the cooperative development of a common understanding on an issue or need among the members of Metro 4 and/or SESARM; the goal being that a proposal is deemed acceptable to all Metro 4 and/or SESARM representatives or that there is no substantial disagreement.
- D. "Contract" is defined as a mutually-binding legal relationship obligating the seller to furnish supplies or services and the buyer to pay for them. To be legally enforceable, a contract must:
1. Be a written agreement;
  2. Be between two or more applicable, competent parties;
  3. Be for a valid consideration;
  4. Accomplish a lawful purpose;
  5. Contain clearly set-forth terms; and
  6. Be in a form as required by law, regulation, and/or standard legal practice.

- E. “Contract management” is defined as all administrative functions relating to oversight and enforcement of a contract from the time it is awarded until the final payment is made and the contract has expired.
- F. “Contract officer” is defined as an individual responsible for representing a contract party in the oversight and management of a contract.
- G. “Contract parties” are defined as Metro 4 or SESARM and one or more vendors responsible for providing requested equipment, supplies, materials, and/or services under a contract.
- H. “Cost and price analysis” is defined as the review and evaluation of the cost of goods and/or services to determine that they are allowable.
- I. “Default” is defined as a failure to perform in accordance with contract conditions followed by a failure to respond satisfactorily and in a timely fashion to a documented notice of deficiency.
- J. “Federal awarding authority” is defined as the federal agency responsible for review of grant application packages and approval of application packages where all announcement and application requirements have been met. For the purposes of these Procurement Procedures, the federal awarding authority will be the EPA.
- K. “Full procurement process” is defined as the procurement process applicable to any purchase of goods and/or services equaling or exceeding \$100,000 and requiring development and posting of a request for proposals, receipt of proposals, convening of a Proposal Review and Contractor Selection (PRCS) Committee, and selection of the best proposal.
- L. “Grant award phase” is the phase between completion of review of a grant application package and the federal awarding agency’s final decision to approve or disapprove the application package.
- M. “Grant post-award phase” is the phase starting on the grant award date and includes initiating and completing project activities, reporting progress, conducting any required audits, completing and submitting the grant closeout package, and final closure approval from the federal awarding agency.
- N. “Grant pre-award phase” is the phase beginning with the announcement of grant opportunities by EPA, submission of a grant application package by an applicant, and review of the submitted package by the federal awarding authority.
- O. “Modified procurement process” is defined as the procurement process applicable to any purchase of goods and/or services equaling or exceeding \$2,500 but less than

\$100,000 and requiring evaluation of multiple vendors and/or services but not requiring a full procurement process.

- P. “Necessary” is a cost principle related to expenses to be paid with federal grant funds requiring that all expenditures be critical to the successful completion of a project for which federal funding has been awarded.
- Q. “Project work group” is defined as an organized group of technical and administrative staff representing Metro 4 and/or SESARM and responsible for overseeing day-to-day operations within a specific technical project.
- R. “Reasonable” is a cost principle related to expenses to be paid with federal grant funds requiring that all expenditures meet the following criteria:
1. Costs that are generally considered necessary for the operation of the grant recipient;
  2. Costs that are generally considered necessary for adequate performance within the prescribed parameters of the grant award;
  3. Costs that are restrained by factors including, but not limited to:
    - a. Responsible and sound business practices;
    - b. Generally accepted accounting principles;
    - c. Arm’s length bargaining;
    - d. Any limitations or exclusions in applicable federal and state laws and regulations;
    - e. Terms and conditions of the award;
    - f. Actions of grant recipient representatives that are conducted with prudence;
    - g. Actions consistently treated over time and conforming to grant recipient policies and procedures;
    - h. No deviations from standard practices that would unjustifiably increase the costs of the project; and
    - i. Costs are not included in any other federally-financed project concurrently applicable to the grant recipient budget and project period or having occurred in a previous period.

- S. “Responsible” is defined as describing a contractor that has the financial resources, technical qualifications, experience, organization, and facilities needed to carry out the project; can meet the completion schedule; and has a satisfactory performance record.
- T. “Small purchase” is defined as any procurement of goods and/or services for which the total cost is less than \$2,500.

### **III. PROCUREMENT DETAILS.**

#### **A. Leasing.**

Metro 4 and SESARM shall evaluate the feasibility of leasing versus purchasing equipment and office automation devices when such procurements are necessary, selecting the most cost-effective alternative, with consideration of any extenuating circumstances.

#### **B. Contracting.**

Metro 4 and SESARM shall use contract services in situations where special expertise and knowledge are required, there are no Metro 4/SESARM staff resources available to do the work, member agency cannot provide in-kind services, and it is not cost-effective or feasible to hire permanent staff and purchase supporting equipment and services to do the work.

#### **C. Procurement Types, Thresholds, and Requirements.**

##### **1. Full Procurement Process (\$100,000 or greater).**

- a. The Executive Director shall ensure that adequate Metro 4 or SESARM funding is available at the Federal Treasury in the form of a grant award before initiating a full procurement process.
- b. Approval from the Metro 4 and/or SESARM Board(s) of Directors shall be obtained prior to initiating any procurement having an expected value equaling or exceeding \$100,000.
- c. Approval from the Metro 4 and/or SESARM Board(s) shall be obtained for all requests for proposals that are part of a full procurement process, except where the Boards have delegated the approval process to the Executive Director and any associated project team assisting in developing the request for proposal and overseeing the project.
- d. The Executive Director shall select membership of a PRCS Committee during the period between release of a request for proposals and the expiration date of the bid submittal period.

- e. Qualifications for participation in a PRCS Committee shall include but not be limited to the following criteria:
  - i. Each committee member shall be an employee of a member agency with an interest in the project topic and outcomes.
  - ii. Each committee member shall be capable of filing a certification form indicating no conflict of interest related to the project and bidders.
- f. The Executive Director shall assist the PRCS Committee in creating a proposal review plan including a proposal scoring worksheet.
- g. The PRCS Committee shall follow the proposal review plan without substantive deviations.
- h. The Executive Director and the PRCS Committee shall collaborate on development of a cost and price analysis to determine the acceptability of the highest scoring proposal, consistent with federal grant requirements for procurements.
- i. The PRCS Committee shall reach a consensus-driven decision on a recommendation for a contractor to conduct the project work.
- j. The Executive Director shall convey the PRCS Committee recommendation to the Metro 4 and/or SESARM Board(s) for any proposed contractor for a procurement that is part of a full procurement process.
- k. Procurements requiring a full procurement process shall be memorialized in the form of an executed, formal, written contract between Metro 4 and/or SESARM and the approved bidder.
- l. Excluded Parties.
  - i. Metro 4 and/or SESARM shall enter into a contract having an expected value equaling or exceeding \$100,000 only after first having obtained a certification that the proposed contractor is not excluded (debarred or suspended) from participating in contracts supported with federal funds.
  - ii. Metro 4 and/or SESARM shall require the submittal of a certification regarding debarment and suspension as part of the bid process for any project having an expected value equaling or exceeding \$100,000.
  - iii. Upon receipt of a certification regarding debarment and suspension, Metro 4 and/or SESARM, as applicable, shall evaluate the validity of the certification

by reviewing the Entity Exclusion Records maintained at the following federal government web page or a succeeding future web page:

<https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>

- iv. Receipt of a properly executed certification regarding debarment and suspension, and verification that the potential contractor is not on the search results as an excluded entity at the web site above, shall establish authority to proceed with contract execution, subject to other requirements of the procurement process.
  - v. Metro 4 and/or SESARM shall maintain a copy of the required certification regarding debarment and suspension and any other related documentation in the official project file.
2. Modified Procurement Process (\$2,500 to < \$100,000).
- a. The modified procurement process shall apply to procurements equaling or exceeding \$2,500 but less than \$100,000.
  - b. The full procurement process may be used by Metro 4 and SESARM at their discretion for any procurement equaling or exceeding \$2,500 but less than \$100,000 and is encouraged for procurements in the upper portion of the range of the modified procurement process cost thresholds.
  - c. Approval from the Metro 4 and/or SESARM Board(s) of Directors shall be obtained prior to initiating any procurement process having an expected value exceeding \$20,000, except where a larger threshold has been established by the Board(s). Procurements less than \$20,000 in value may require Board approval if unbudgeted but necessary in the current budget cycle.
  - d. Metro 4 and/or SESARM shall make diligent attempts to obtain multiple price quotes or otherwise identify multiple vendor costs for procurements equaling or exceeding \$10,000 and less than \$100,000 through requests for price quotes.
  - e. Costs between \$2,500 and \$10,000 may be obtained through reviews of advertisements, internet searches, telephone calls, or other less formal means.
  - f. Procurement of professional services equaling or exceeding \$10,000 and procurement of services necessitating detailed conditions or having complex deliverables shall require development and execution of a formal contract.
  - g. Procurement of professional services with a value less than \$10,000 may be memorialized by a contract or other written document including a letter of agreement.

- h. For procurement of computer software and hardware, office automation devices, supplies, and other miscellaneous items, no contract or other written document of agreement shall be necessary, but diligent efforts shall be made to identify the most cost-effective alternative prior to procurement.
3. Small Purchases (less than \$2,500).
- a. The Executive Director shall approve initiation and completion of small purchases.
  - b. Small purchases may be made without formal price quotes, bidding, or procurement documentation other than a sales receipt.
  - c. Metro 4 and SESARM shall make diligent efforts to identify competitively-priced small purchase items and procure the most cost-effective items that practicality will allow, subject to consideration of resources necessary to make analysis of purchase options.
- D. Procurement Segmentation.
- Procurements shall not be segmented into smaller amounts for the purpose of avoiding more stringent procurement procedures that the cumulative cost would trigger.
- E. Contractor Qualifications.
- Metro 4 and SESARM shall award contracts only to responsible contractors that have demonstrated a capability to perform successfully in the sought-after field of expertise relevant to the intended product deliveries.
- F. Contractual Considerations for Disadvantaged Business Enterprises.
- 1. Metro 4 and SESARM are obligated under grant award conditions to ensure that disadvantaged business enterprises (DBEs – woman-owned and minority-owned) receive fair consideration during procurement processes supported by federal funds.
  - 2. All sole source and competitive procurements with contractors shall include provisions reminding contractors of DBE requirements and goals and encouraging their use of DBE subcontractors where possible.
  - 3. Contractual procurements shall follow the provisions in Section IX. of these Procurement Procedures including but not limited to all federal regulations regarding DBEs and all Metro 4/SESARM grant conditions.



G. Natural Resource Conservation, Environmental Protection, and Energy Efficiency.

Preference shall be given, to the extent practical and economically feasible, to procurement of products and services that conserve natural resources, protect the environment, and are energy efficient.

H. Unauthorized Persons.

Metro 4 and/or SESARM shall not be bound by the actions of any unauthorized person who provides direction to a contractor. Individuals who make financial commitments on behalf of Metro 4 and/or SESARM without proper authority do so at their personal risk.

I. Provision of Procurement Documentation to EPA.

Metro 4 and/or SESARM shall, upon request, make available to EPA pre-award review and procurement documents as well as post-award documents. EPA may request such review for procurements or contract modifications with a value of \$100,000 or more that are not competed or when only one bid is received.

J. Provision of Project Reports to EPA.

Metro 4 and/or SESARM shall also provide to EPA all required reports and copies of all required deliverables in accordance with the grant under which the contract is being funded.

**IV. CONTRACTOR PROCUREMENT PROCESS.**

A. Authorization to Sign Contracts.

Only the Metro 4 President, SESARM Chair, or Metro 4/SESARM Executive Director or an official designee thereof shall have the authority to sign a contract on behalf of Metro 4 and/or SESARM.

B. Contractor Procurement Duties of Metro 4 and SESARM Representatives.

The Metro 4 and/or SESARM representatives who may be involved in official contract actions are the Metro 4 and SESARM officers, the Metro 4 and SESARM Boards of Directors, the Metro 4/SESARM Executive Director, other Metro 4/SESARM staff, designated staff of member agencies of Metro 4 and/or SESARM, and other formally-approved agents of Metro 4 and/or SESARM.

1. Boards of Directors.

- a. The Metro 4 and/or SESARM Boards of Directors and/or the collective Metro 4/SESARM Boards of Directors, as applicable, shall retain final authority

over all Metro 4 and SESARM procurement and contract matters and shall convene meetings for the purpose of addressing procurement and contract matters, consistent with their respective bylaws.

- b. Approval from the Metro 4 and/or SESARM Board(s) of Directors shall be obtained prior to initiating any procurement process having an expected value equaling or exceeding \$20,000, except where a larger threshold has been established by the Board(s). Procurements less than \$20,000 in value may require Board approval if unbudgeted but necessary in the current budget cycle.
  - c. Metro 4 and/or SESARM Board actions may include, but are not limited to, the following:
    - i. Authorizing expenditures adequate to cover projected contract expenses;
    - ii. Granting authority to initiate project planning and issue Requests for Proposals;
    - iii. Reviewing and acting upon recommendations from a PRCS Committee;
    - iv. Making a decision on a project contract award in the event that a PRCS Committee is not able to reach consensus on a recommendation;
    - v. Monitoring project progress and issuing directives relative to project progress, project scope, and adjustments to project costs; and
    - vi. Authorizing termination of contracts for cause or without cause, prior to the original planned contract end-date.
2. Executive Director.

Procurement duties of the Metro 4/SESARM Executive Director shall include but are not limited to:

- a. Metro 4/SESARM administrative office operations;
- b. Office administration procurements;
- c. Development and maintenance of an adequate Quality Management Plan;
- d. Event support including meeting, workshop, and training support procurements;
- e. Project management, including but not limited to:
  - i. Project design and development of Requests for Proposals;

- ii. Proposal review and contractor selection;
  - iii. Contract development, execution, and management;
  - iv. Project Work Plan development;
  - v. Quality Assurance Project Plan (QAPP) development, when applicable;
  - vi. Project budget management including oversight of expenditures as authorized by the Metro 4 and/or SESARM Board(s)
  - vii. Auditing of invoices for acceptability prior to payment;
  - viii. Prompt addressing of project complications including any contractor deficiencies; and
  - ix. Regular project status communications with the Metro 4/SESARM Boards of Directors.
- f. Serving as an administrative liaison between the Metro 4 and SESARM Boards of Directors, member agency staff, and other Metro 4/SESARM representatives including vendors;
- g. Ensuring that appropriate financial and technical records are maintained for all significant office administration, event, and project activities; and
- h. Submittal of all required reports to applicable recipients.
3. Treasurer.
- a. The Metro 4 and/or SESARM Treasurer(s) shall assist the Executive Director, as necessary, in management of Metro 4/SESARM funds in accordance with the Metro 4 and SESARM bylaws, these Procurement Procedures and associated Policies, and all grant recipient requirements.
  - b. The primary contract roles of the Metro 4 and/or SESARM Treasurer(s) shall be to advise and assist the Executive Director, as necessary, to:
    - i. Validate the availability of adequate project funds prior to entering into a contract;
    - ii. Ensure delivery of work products within the project budget cap;
    - iii. Make arrangements for necessary project funds to be in the checking account in a timely manner for payment of project invoices; and

- iv. Accomplish prompt and proper payment of all vouchers and invoices.
4. Contract Officer.
- a. The Contract Officer may be the Metro 4/SESARM Executive Director, a Metro 4/SESARM member agency staff person, or a contractor.
  - b. An Alternate Contract Officer may be designated to act in the absence of the Contract Officer.
  - c. The Contract Officer, in consultation with the Executive Director, when different individuals hold these positions, shall oversee a contract throughout the contract term.
  - d. The Contract Officer shall be the first point of contact when project questions and disputes arise.
  - e. All technical direction to the contractor shall be provided through the Contract Officer to the extent that the Contract Officer is available to provide such direction. This will help to ensure that conflicting directions and priorities are not given to the contractor.
  - f. The Contract Officer shall have the authority to perform the following, and other necessary, project tasks, some or all of which may be in collaboration with the Executive Director and a Project Work Group:
    - i. Coordinate a team of technical staff who will provide technical input and review of project tasks;
    - ii. Coordinate preparation of a project contract;
    - iii. Provide general direction to a contractor;
    - iv. Coordinate preparation of a project work plan including identification of all necessary tasks and deliverables;
    - v. Accept deliverables, assign review responsibilities, coordinate reviews, and produce feedback to contractors on behalf of Metro 4/SESARM regarding work assignments, deliverables, and contract performance and compliance;
    - vi. Modify contract terms and conditions through executed amendments, after seeking and receiving approval from the Metro 4 and/or SESARM Board(s) of Directors for major changes in project scope and/or increases in total project costs;

- vii. Monitor contractor performance from both a technical and financial standpoint, using the contract, work plan, QAPP, and other associated documents as guides;
  - viii. Review contractor progress reports including adherence to the project timeline and identify and take action to address any project complications;
  - ix. Review the accuracy of invoices before payment; and
  - x. Ensure that all project deliverables and other project documentation are archived and maintained in the project files in a timely manner and for prescribed periods of time.
5. Coordinating Committee.
- A Coordinating Committee shall:
- a. Be created, if needed, for any Metro 4/SESARM project;
  - b. Serve to support project needs including the design and implementation of a project plan and associated contract(s);
  - c. Regularly interface with the Executive Director, the Metro 4 and/or SESARM Board(s) of Directors, and any Work Groups supporting a project;
  - d. Provide direction to any Work Groups supporting a project; and
  - e. Review, accept where applicable, and forward for approval to the Metro 4 and/or SESARM Board(s) of Directors any Technical Work Group recommendations requiring Board approval.
6. Project Work Group.
- a. The need for Project Work Groups shall be determined by the participating member agencies in consultation with the Executive Director and shall be established and staffed to oversee critical technical areas of each technical project.
  - b. Project Work Groups shall represent the various agencies involved in a project, with members of a Project Work Group selected based on their experience in specific disciplines required to oversee the project in a thorough and sound manner.
  - c. A Project Work Group shall have the authority to:

- i. Participate in recommendations of a Contract Officer;
- ii. Participate in the selection of a PRCS Committee;
- iii. Provide guidance to the Contract Officer, the PRCS Committee, contractors, and agency staff working on a specific project on all facets of a project from initial guidance document development through review of final deliverables; and
- iv. Provide feedback within the project organizational hierarchy regarding contractor performance, project outcomes, solutions to any identified problems, and suggested policies for use of information gained from a technical project.

7. Proposal Review and Contractor Selection Committee.

- a. A PRCS Committee shall consist of representatives of the Coordinating Committee, if applicable, representatives of the appropriate Metro 4/SESARM Project Work Group(s), and any designated individuals from outside Metro 4/SESARM who are deemed vital to an adequate and thorough review of the credentials of all contract proposals and selection of a capable contractor.
- b. A PRCS Committee shall be representative of appropriate agencies and disciplines needed to ensure that proposals and contracts are consistent with project goals and objectives.
- c. Recommended members of a PRCS Committee shall be capable of submitting, and shall submit, before being officially named members, a conflict of interest certification form (see Section XI. I.) asserting that they have no conflicts of interest related to any entity that has submitted a proposal.
- d. PRCS Committee members shall follow the conflict of interest procedures outlined in Section VI. B. 3. f.

**V. CONTRACT TYPES AND CONTENT.**

- A. The most common contract types that may be used by Metro 4 and SESARM are described below. Metro 4 and SESARM representatives shall achieve and maintain sufficient knowledge of contract type differences because of contract management variations required by each type.

1. Fixed-Price Contracts.

- a. Fixed-price contracts are usually used when project expectations, design, and specifications are reasonably definite and when a fair and reasonable price can

be established at the outset. A fixed price is established before the contract award is made. The cost is not subject to adjustment, regardless of costs encountered by the contractor, provided that the project scope does not change.

- b. Advantages to the contractor for this type of contract include the potential for higher contractor profits, less control by Metro 4/SESARM, and fewer administrative costs. Disadvantages to the contractor include assumption of greater financial and technical risks and the need for more vigilance to initiate and adjust approaches to minimize extra contractor costs.
  - c. Advantages to Metro 4/SESARM for this type of contract include the fact that the contractor bears risk of performance and the risk is fixed and limited. The primary disadvantage to Metro 4/SESARM is that it has reduced capability to modify the approach to project direction without creating and executing contract amendments.
2. Cost-Plus-Fixed-Fee Contracts.
- a. Cost-plus-fixed-fee contracts are usually developed with universities or other non-profit organizations. This type of contract allows payment of a reasonable, allowable cost plus a negotiated fixed fee or profit. Cost-plus-fixed-fee contracts do not vary with actual costs, but may be adjusted for changes in work performed. Cost-plus-fixed-fee contracts are usually used when the level of performance desired cannot be clearly specified and when accurate costs are impossible to estimate.
  - b. Advantages to the contractor for use of this type of contract include assumption of a lower cost risk and a reduced liability for Metro 4/SESARM property. Disadvantages to the contractor are a higher level of routine involvement of Metro 4/SESARM and a lower fee or profit due to lower risks.
  - c. Advantages to SESARM for this type of contract include greater flexibility and greater control with some expanded ability to give technical direction. Disadvantages to Metro 4/SESARM include assumption of a greater risk and a requirement for more resources to monitor costs and performance.
3. Time-and-Materials and Labor-Hour Contracts.
- a. Time-and-materials and labor-hour contracts require payment to a contractor at a fixed rate for each hour of direct labor worked by the contractor up to a negotiated ceiling on the total price. Time-and-materials contracts also require payment of materials at cost. Indirect costs and profit are included in the fixed hourly rates. These types of contracts are typically used for engineering and

design services; repair, maintenance, or overhaul work; and emergency situations.

- b. Advantages to the contractor for these types of contracts include the potential to maximize profits, minimize risks, and assume fewer administrative costs. A disadvantage to the contractor is the need for Metro 4/SESARM to be heavily involved in all facets of project performance.
  - c. Advantages to Metro 4/SESARM include greater flexibility and control. Disadvantages to Metro 4/SESARM include potential higher costs and a requirement for more in-depth project oversight.
- B. Metro 4 and/or SESARM shall determine the type of contract to be used based on the nature of the project, the tasks to be performed, the constant goal to minimize Metro 4/SESARM oversight resources, and the necessity to ensure successful completion of the project.
- C. All Metro 4/SESARM contracts shall include, but shall not be limited to, the following major elements, for which more detailed information on each component may be found in the most recent previously executed contract, at this writing being the 2018 contract for the VISTAS Regional Haze Phase 2 Project:
1. Contract title and number;
  2. Parties to the contract;
  3. Contract type and management expectations;
  4. Contractor obligations including tasks and subtasks as well as progress, task, and project reporting;
  5. Metro 4/SESARM obligations;
  6. Contract costs by task and overall;
  7. Project schedule including task and subtask deliverables and contract expiration date;
  8. General terms and conditions including, but not limited to:
    - a. Compliance requirement for all contract parties including subcontractors;
    - b. Compliance with federal requirements;
    - c. Scope of the agreement;



- d. Contract headings;
- e. Non-effect of waiver;
- f. Execution process;
- g. Amendment process;
- h. Notices;
- i. Contractor staff description;
- j. Contractor representations;
- k. Services;
- l. Agreement nature and limitations;
- m. Confidential business information;
- n. Records access;
- o. Ownership of results;
- p. Publication procedures;
- q. Liability;
- r. Breach of contract;
- s. Attorney fees;
- t. Force majeure;
- u. Disadvantaged business enterprise obligations;
- v. Severability; and
- w. Other federally-mandated contract provisions.

9. Signatures and dates.

**VI. PROCEDURES FOR PROCURING SERVICES VIA CONTRACTS.**

- A. The contractor procurement goal of Metro 4 and SESARM is to conduct a fair and equitable contractor selection process for each necessary project contract that is

awarded, taking into consideration the nature of the project and the unique factors that may favor one potential contractor over others.

- B. Metro 4 and SESARM have three options for procuring contract services. These are sole-source, solicitation of bids from a list of qualified contractors, and a full competitive process.

1. Sole Source Contracts.

- a. The sole-source process is one that should be used with care and only in specific, justified circumstances. Sole-source contracts with a cost expected to equal or exceed \$20,000 shall require the approval of the Metro 4 and/or SESARM Board(s) of Directors, except as otherwise established by the Board(s). Sole-source procurements expected to exceed \$100,000 in total cost shall not be finalized until and unless approved by EPA Region 4's air project grants staff. Metro 4 and/or SESARM shall seek such approval in advance of making a firm financial or legal commitment to any potential contractor.

- b. Circumstances justifying a sole-source contract include, but are not limited to:

- i. Unique situations where only one source can provide the level of goods and services needed;
- ii. A contract involves continuation of an existing project for which no other vendor has the required level of experience needed to support timely delivery of final products, and the selected vendor's rates have been determined to be competitive; and/or
- iii. Metro 4 and/or SESARM has a need for a product deemed critical by the Board(s) of Directors and for which a competitive bid process would cause unacceptable delays resulting in conflicts with project goals and necessities, Metro 4's and/or SESARM's general and specific missions, and/or administrative, technical, and/or legal realities.

- c. For a contract produced from a sole-source process, Metro 4 and/or SESARM shall maintain records documenting the basis for limiting the scope of the solicitation for bids.

2. Pre-qualified Contractors.

Solicitation of bids from qualified contractors involves using a list of pre-qualified persons or firms for specific technical work.

- a. Metro 4 and/or SESARM, after approval of the Board(s) and necessary consultation with any associated project work group, coordinating committee,

the contract officer, and/or the Executive Director, may request technical proposals from all or the most qualified contractor candidates after ranking them according to specific pre-set evaluation criteria.

- b. The PRCS Committee shall then evaluate bids and recommend selection of the best-qualified proposal based on predetermined evaluation criteria including technical capabilities, the cost proposal, and the project budget.
  - c. The PRCS Committee shall provide its recommendation to any associated project work group and coordinating committee with these entities, in turn, evaluating the recommendation, making a determination, and providing a final recommendation to the Executive Director and/or the Board(s) of Directors for final approval.
  - d. The Executive Director or Board(s) of Directors, as appropriate, shall make the final decision on whether to award the contract, seek modifications to the contract, seek new bids, or not proceed with the project.
  - e. Metro 4 and SESARM are not restricted to selecting the least cost bid if other critical project factors and needs dictate selection of another bid, provided that proper analysis and justification are documented and the procurement meets all requirements for federally-funded projects.
  - f. For a contract offered only to a list of prequalified persons or firms, Metro 4 and/or SESARM shall maintain records documenting the basis for limiting the scope of the solicitation for bids.
3. Full Competitive Process.

The full competitive procurement process provides open and free competition. It also requires the longest lead-time. As a general rule, Metro 4 and/or SESARM should plan a start-work date at least six months from the initiation of the competitive procedure to allow adequate planning bid preparation, proposal consideration, contractor selection, and contract execution. To avoid any appearance of bias or unfairness, specified steps should be consistently followed. The following steps outline the full competitive process. Where appropriate, some of these steps may also apply to sole-source and pre-qualified procurement options and should be followed where possible.

a. Notice of Intent to Seek Bids

A notice of intent to seek bids for specific goods and/or services should be posted, where possible, to the Metro 4/SESARM web site in advance of the expected posting date of a Request for Proposals (RFP).

b. Development of RFPs.

- i. A Metro 4/SESARM RFP shall be developed by a Metro 4/SESARM technical team including, as appropriate, the Executive Director, administrative staff, the prospective Contract Officer, and representatives of member agencies with adequate expertise to provide value to the project planning exercise individually and/or as part of a project work group and/or committee.
- ii. An RFP shall contain all key Metro 4/SESARM project expectations including, but not limited to, the conflict of interest disclosure policy; the requirement for submitting a certification regarding suspension and debarment; project purpose, goals, and objectives; technical considerations and expectations; project tasks; reporting requirements; deliverables; milestones; billing instructions; and general proposal review and acceptance criteria.
- iii. RFP language may clarify flexibilities that allow expansion of the original scope of the contract during or at the end of the contract consistent with the intent of the project.
- iv. An RFP may, in some instances, also include the dollar amount budgeted for the contract in situations where Metro 4/SESARM does not intend to allow the contract to exceed a specific dollar amount, though, in most cases, providing the contract budget during the bidding process may result in bids being closer to the budgeted amount.
- v. An RFP for consulting services shall not specify any individual who must conduct any portion of the project work unless Metro 4/SESARM is willing to accept the possibility that a portion of the salary of such an individual may not be chargeable to the grant due to federal limitations prohibiting, in certain situations, use of grant funds to pay consultant salaries exceeding federally-cited senior executive service salary levels.
- vi. The draft RFP shall be reviewed by appropriate Metro 4/SESARM technical and administrative individuals including project coordinating committees and/or work groups as necessary to ensure the soundness of the project.
- vii. The Metro 4 and/or SESARM Board(s) of Directors shall be kept informed throughout the project development and procurement processes.
- viii. Issuance of RFPs and/or accepting responses to an RFP does not commit Metro 4 or SESARM or any Metro 4/SESARM representative to accept any proposal or to respond in any way to a submitted proposal, other than to inform bidders that no action will be taken in response to the proposal solicitation.

c. Scope of Work.

- i. An RFP shall contain adequate project information to meet the general definition of a scope of work, which will later inform development of the project work plan, explaining to prospective bidders the services Metro 4/SESARM is seeking and, in some cases, descriptions of approaches and methodologies for completing the project.
- ii. A scope of work shall be prepared with care to ensure adequate detail that will inform prospective bidders and provide them sufficient information to produce a reliable proposal containing a suggested technical approach, any alternative approaches, and a cost bid.

d. RFP Approval.

The Metro 4 and/or SESARM Board(s) of Directors shall review RFPs for projects with an estimated cost equaling or exceeding \$20,000, upon recommendation of the Executive Director and/or any applicable project work groups and coordinating committees, and shall have final authority to approve an RFP, should they choose to exercise their approval authority.

e. Solicitation.

- i. Metro 4/SESARM shall post an RFP on the Metro 4/SESARM web site on the day that the advertisement for proposals begins.
- ii. Metro 4/SESARM shall also send email notice of the posting of RFPs to all prospective bidders who have requested to be notified of bid opportunities and for whom current contact information is available.
- iii. If a pre-qualified bidder list is maintained, it shall be updated before using it and it shall contain a number of entities adequate to ensure reasonable competition and availability of cost-effective services.
- iv. Metro 4/SESARM shall set a due date for receipt of RFP questions from bidders to a date earlier than the deadline for receipt of proposals, to give adequate time for responses to questions and consideration of responses by prospective bidders.
- v. Metro 4/SESARM may choose to have a pre-proposal conference call or webinar with potential bidders to answer questions arising out of the RFP. Metro 4/SESARM may also choose to answer questions in writing in which case all questions and answers shall be provided to all bidders by e-mail and/or by posting them on the appropriate Metro 4/SESARM web page. Metro 4/SESARM shall not provide unique information to a single

prospective bidder that might create an unfair competitive advantage for that bidder compared to the other bidders who would not have that information.

- vi. Under non-emergency circumstances, Metro 4/SESARM shall provide 30 days from posting of an RFP to the due date for submittal of proposals. This timeframe may be shortened if the notice of intent to issue an RFP is posted timely and specifies that a shorter period than 30 days will be established, if a shorter timeframe is needed to meet the needs of Metro 4 and/or SESARM, and if the development of bids is expected to be simple enough that proposals can be completed and submitted within a shorter timeframe.
- f. Conflict of Interest.
- i. The bid evaluation process requires objectivity, expertise, rational judgment, and integrity. If any of these are lacking, the results may be protested, awarding the contract and/or initiation of the project may be delayed, and/or, in certain cases, the decision may be legally challenged.
  - ii. Initial work on formation of a PRCS Committee shall begin before proposals are received but finalization of official membership shall not occur until the proposal deadline is passed, all bids have been received, potential PRCS Committee members have been informed of the names of the bidders, and each individual has provided a signed conflict of interest certification form indicating that he or she has no conflict of interest relative to any bidding entity, individual, affiliation, or other facet of the project.
  - iii. PRCS Committee members shall take extreme caution to focus on the content of each technical and cost proposal and remain uninfluenced by external information and personal experience that might create the appearance of a conflict of interest.
  - iv. A PRCS Committee member shall immediately report emergence or recognition of a previously undisclosed conflict of interest, or the appearance thereof, upon recognition that an uninvolved observer would likely conclude that a conflict of interest exists.
  - v. The Executive Director and any appropriate designees may serve as advisors and ex officio, non-voting members of a PRCS Committee.
- g. PRCS Committee Organization.
- i. The Metro 4/SESARM staff shall provide administrative and directional support and assistance to the PRCS Committee as needed.

- ii. A PRCS Committee shall select a chair and vice chair, or co-chairs, from within the Committee, to manage the activities of the Committee.
- h. Proposal Review and Scoring.
- i. The PRCS Committee shall develop a scoring system for evaluating project proposals which may follow the procedures described below.
  - ii. The scoring system shall include all important facets of the project.
  - iii. A percentage weighting shall be applied to each facet, with the cumulative weighting for all facets totaling 100%.
  - iv. Committee members shall be advised to apply a facet score ranging from 1-10 for each facet, as determined by an analysis of the proposal content compared to the Request for Proposals criteria for each facet.
  - v. Cost proposals, which shall have been submitted by each bidder separate from technical proposals, shall be provided to Committee members only after completion of review of the technical proposals. at which time they shall be evaluated and scored as well.
  - vi. The score final for each proposal shall be calculated by each individual by multiplying each facet weighting times the facet score to determine a facet total with all facet totals being added together to arrive at a proposal score.
  - vii. When all proposal scores have been determined, each individual shall apply a proposal ranking to each proposal with the highest ranking proposal receiving a value corresponding to the number of proposals evaluated, the second highest a value one less than the highest ranking, and so on down to the lowest proposal receiving a ranking of "1."
  - viii. When all individuals have determined their proposal rankings, the rankings shall be placed into a table and totaled with the highest cumulative ranking being the preliminary favored proposal.
  - ix. At completion of the review and preliminary scoring and ranking processes, Committee members may discuss their proposal assessments with each other including the strengths/weaknesses of each proposal, after which there may be a brief consideration of the original scoring system to determine if an important facet was omitted, an individual facet weighting was incorrectly established, and/or a new issue has emerged that would affect the relative rankings. If this is necessary as determined by Committee member consensus, adjustments may be made to scoring and ranking, concluding with a revised cumulative proposal ranking.

- x. Bidders may be contacted by the Committee to ask any clarifying questions about their respective bids.
- xi. Bidder references may be checked if needed.
- xii. Bargaining between bidders shall not be initiated although it may be appropriate to ask a bidder if there are cost areas that can be reduced without affecting the outcome of the project.
- xiii. When it has been determined that no further information is needed and no one has a legitimate reason to change a score, the Committee shall produce a procurement report including a cost and price analysis which shall be shared with its members.
- xiv. After Committee members review the procurement report, they shall initiate a consensus process, make a recommendation of a desired bidder, or multiple bidders as appropriate, for approval, and provide the recommendation to the Executive Director.

i. Final Contractor Selection Review Process.

After the PRCS Committee has made a recommendation of a desired contractor proposal, the recommendation shall be shared with any applicable project technical work group(s) and coordinating committee(s), to summarize the PRCS Committee recommendation and to seek their collective concurrence, which shall be provided to the Executive Director.

j. Final Board Approval.

After receiving the recommendation of applicable project work groups and committees, the Executive Director shall request that a meeting or meetings be convened of the Metro 4 and/or SESARM Board(s) of Directors to present the contractor recommendation, details of the proposal, and associated costs, and to take final action on the recommendation.

k. Notification to Bidders.

Notification shall be made to the approved contractor after receipt of Board approval to award the contract to that entity, but notification to other bidders shall be delayed until it is clear that a contract with the winner bidder will be executed.



l. Failure to Contract with Winning Bidder and Alternate Steps.

In the event that a contract with the apparent winning bidder cannot be executed, the second highest scoring bidder shall be contacted, provided that the technical and cost aspects of the bid are fully acceptable. and attempts shall be made to execute a contract with that entity.

m. Post-selection Contact with Unselected Bidders.

- i. When a contract has been executed, bidders not selected shall be notified by telephone or e-mail that their bid was not selected.
- ii. It is acceptable to provide information to unselected bidders regarding the name of the selected bidder and, in general terms, the circumstances of them not being selected such as less experience, higher cost, etc. However, details of the winning bid, especially the cost, should not be shared unless required by statute or regulation, and scoring documentation should not be shared.

n. Inability to Execute a Contract After Procurement Effort is Completed.

In the event that a satisfactory technical and cost package does not exist, the project may be redesigned, readvertised, postponed, and/or canceled.

o. Sole Bidder in Competitive Process.

In the event that only one proposal is received during a competitive solicitation and it is found to be acceptable from a technical and cost standpoint, Metro 4/SESARM shall follow the procedures for a sole-source procurement and may execute a contract with the bidder, provided that the sole-source procedures in this document are followed, the procurement meets all requirements for grant recipients, and the procurement is fully justified in documentation for the project files.

p. Proposal Ownership.

Proposals received by Metro 4 and/or SESARM shall become the property of Metro 4/SESARM but distribution shall be exercised in a judicious manner to protect the rights and strategies of bidders as well as to ensure that no information is released that would constitute confidential business information and/or expose competition strategies of one bidder to another that would provide an unfair advantage to one bidder over another in a future procurement process.

## **VII. CONTRACT DEVELOPMENT AND MANAGEMENT.**

### **A. Contract Development and Execution.**

1. A draft contract shall be developed by the Metro 4/SESARM Executive Director and the Contract Officer, consistent with the needs of the participating member agencies, the project outline, the RFP, the contract provisions listed in Section V. C. of these Procurement Procedures, and any other provisions necessary to conform to federal requirements for procurements and resultant grant expenditures.
2. The draft contract shall be circulated among the various Metro 4/SESARM interested parties, project work groups, and coordinating committees for review and a determination of sufficiency.
3. Metro 4 and/or SESARM transmit the draft contract to the selected bidder for review, editing if necessary, and signature.
4. A contract shall be deemed executed, in effect, and enforceable, on the date when it has been signed and dated by the last of the contract parties.

### **B. Contract Management – General and Tasks.**

1. Contract Language.
  - a. Contracts shall be interpreted solely based on their language, using definitions found in the contract, if any exist.
  - b. In the absence of specific definitions, the common usage of words as outlined in these Procurement Procedures or Merriam-Webster Dictionary shall be the basis of contract language interpretation.
  - c. If the language of a contract is not sufficient to govern the activities taking place under its provisions, the Contract Officer shall initiate necessary steps to make required changes in the contract with such changes documented in writing in the form of a revised contract or contract amendment.
2. The Contract Officer shall be the primary contact with the contractor and shall be responsible for tracking progress of the contractor and ensuring compliance with all contract provisions.
3. Although the Contract Officer is responsible for management of the contract and has direct contact with the contractor, deliverables shall be reviewed and accepted by the appropriate Project Work Group, Coordinating Committee, and other SESARM member agency staff.

4. The Contract Officer shall maintain frequent contact with the contractor to monitor progress and to ensure that the project is remaining on schedule, on task, and within its budget.
  5. No payment shall be made for goods and services unless said goods and services have been received, reviewed, found to be acceptable, and have been approved by the Contract Officer.
  6. Without modification of a contract in accordance with these Procurement Procedures and the conditions of the contract, no contractor, Contract Officer, or any other representative of Metro 4/SESARM shall initiate or order work outside the contract scope; initiate or order a contract change; increase or decrease the cost of the contract; or alter any other contract terms and conditions.
  7. Initiation of contractor effort on any contract task shall be authorized by Metro 4/SESARM in writing to the contractor prior to its initiation.
- C. Contract Cost Management – Costs.
1. The Executive Director shall seek prior approval from the Metro 4 and/or SESARM Board(s) of Directors for all project cost increases.
  2. The Executive Director shall be authorized to review and, when appropriate, approve adjustments between task budgets having no net effect on the total authorized project cost, provided that such actions do not create a need for a future contract cost increase that has not been preapproved by the Metro 4 and/or SESARM Board(s).
  3. The Contract Officer shall consult with the Metro 4 and/or SESARM Treasurer(s) regarding any financial concerns arising out of contract management. For cost increases not anticipated or addressed in the existing contract, neither the Contract Officer nor the Executive Director shall be authorized to approve total project cost increases without approval of the Board(s) of Directors, if either Board was required to approve the original contract.
- D. Contract Performance Deficiencies.
1. The Contract Officer shall be responsible for bringing deficiencies to the attention of the contractor, the appropriate project work group(s) and coordinating committee(s), and the Metro 4 and/or SESARM Board(s) order as necessary to ensure the success and integrity of the project.
  2. The Contract Officer shall document substantive deficiencies in writing and shall provide to the contractor the nature of the deficiencies, a request for a corrective action plan, and deadlines for receipt of the plan and correction of the deficiencies.

E. Contract Records.

The Contract Officer shall maintain working files documenting all substantive formal communications with the contractor and actions taken relative to the contract, contractor performance, and other critical project elements, as determined by the Contract Officer.

F. Contract Termination.

1. Metro 4 and/or SESARM shall have the right to terminate a contract in accordance with the terms and conditions of the contract due to default of the contractor, loss of applicable funding, or for convenience, without Metro 4 and/or SESARM incurring any contractual penalties or other financial obligations from said action.
2. Termination for default shall be a contractual right of Metro 4 and/or SESARM if the contractor has failed to perform satisfactorily its contractual obligations, after notice and a reasonable opportunity to correct performance deficiencies in a sufficient and timely manner, or the deficiencies are of such magnitude to warrant immediate termination for cause.
3. Metro 4 and/or SESARM may also terminate a contract for convenience, provided that the circumstances have been carefully analyzed and have been determined not to create complications for Metro 4 and/or SESARM to establish future contractual arrangements with the same or different parties.
4. At any time Metro 4 and/or SESARM experiences a loss of funding applicable to a project, any associated contract(s) may be terminated. Such action taken shall conform to the termination provisions of the contract.
5. Contract termination may be completed after a prior 30-day notification in writing to the contractor of the reason for the termination and the effective date of the termination.
6. Contract terminations shall require concurrence of applicable project work group(s) and coordinating committee(s), the Contract Officer, and the Executive Director, and approval by the Metro 4 and/or SESARM Board(s) of Directors, if the original contract required approval of the Board(s).

G. Contract Closeout.

1. Prior to contract closeout, the Contract Officer shall ensure that all performance requirements of the contract have been met, all project deliverables have been completed and received, all task and project reports have been received and are sufficient, a final invoice has been received, and all other contract requirements have been met.

2. The Contract Officer should examine all project deliverables including data bases, presentations, reports, and invoices and shall seek acceptance from applicable work group(s) and coordinating committee(s) prior to issuing a final contract closeout notice.
3. The Contract Officer shall also provide the Executive Director with information necessary to complete reporting requirements to EPA.

**VIII. COST AND PRICE ANALYSIS.**

- A. Metro 4/SESARM shall conduct procurements consistent with federal grant recipient requirements and this section of these Procurement Procedures.
- B. Small Purchases (less than \$2,500).
  1. For small purchases, no formal cost and price analysis shall be required and conformance to the provisions of Section VIII. B. of these Procurement Procedures shall constitute compliance with cost and price analysis requirements.
  2. Metro 4/SESARM representatives shall monitor item costs available from various vendors and make practical purchases that serve the specified need, are of adequate quality, have reasonable and competitive costs, and can be procured within the needed timeframe.
  3. Metro 4/SESARM staff routinely have access to advertisements via various media including radio, television, print media, and internet websites. These advertisements indicate common availability and pricing of supplies and other office support items. The staff also are likely to visit and be familiar with physical store locations that provide needed items. Experience has shown that the business environment is very competitive and pricing is very similar between businesses with brick and mortar locations and between internet vendors. Price differences for needed items in the quantities usually purchased by Metro 4/SESARM vary from a few cents to a few dollars in most cases.
  4. Metro 4/SESARM staff shall utilize available purchase credits, refund credits, membership credits, and discount coupons to offset purchase costs. Such credits and coupons make it possible to achieve considerable savings, even off advertised sale prices, on many items periodically needed.
  5. Metro 4/SESARM staff shall not be expected to exhaustively search for minor savings. However, as potential costs increase towards the small purchase threshold, more attention should be given to researching prices from multiple vendors.
  6. In some cases, it may be appropriate to consider purchasing refurbished items, especially where such purchases are necessary, but the use of the items may be

infrequent, and their reconditioned status will not negatively affect delivery of Metro 4/SESARM services to the member agencies.

7. Metro 4 and SESARM do not have dedicated physical office space at this time. Staff work from their homes. Overhead costs have been reduced. It is not practical to buy very many items in bulk since the staff work from multiple locations and business storage space is extremely limited in each staff person's home. Further, consumption of expendable supplies and other items is relatively slow given the limited number of staff. Federal grant regulations suggest that grant recipients establish and practice a policy of not making unnecessary procurements. Metro 4 and SESARM are firmly committed to be wise stewards of federal grant funds. Therefore, Metro 4 and SESARM do not intend to overspend on items by buying in bulk since the exercise would only achieve minimal savings and would also tie up federal funds in assets that are not necessary in the short-run.
  8. Metro 4 and SESARM will have ongoing knowledge of the marketplace and will practice good stewardship of organization funds by allowing purchase of needed items in practical quantities at the lowest practical cost. Conformance to these procedures shall constitute an adequate cost and price analysis for these *de minimus* purchases.
- C. Purchases Subject to the Modified or Full Procurement Process (\$2,500 or greater).
3. For procurements equaling or exceeding \$2,500 in cost, a formal cost and price analysis process shall be followed, with escalation in detail as costs increase.
  2. Metro 4 and SESARM may conduct cost comparisons based on solicited or unsolicited information.
  3. Metro 4 and SESARM may develop and utilize a checklist form to assist with documenting a cost and price analyses or it may prepare such analyses in narrative form.
  4. Metro 4 and SESARM shall include, in cost and price analyses, information on the competitive or noncompetitive nature of the procurement including, if noncompetitive, the justification for selecting the noncompetitive option.
  5. Metro 4 and SESARM shall also include in its analysis of costs and prices, as applicable, previous purchase costs for the same or similar goods and services, published price lists, any evidence of federal procurement of similar services from the same or different vendors, preliminary cost estimates, comparisons of estimates with actual prices, and a final analysis of the reasonableness, allocability, and allowability of the proposed purchase.

6. Metro 4 and SESARM shall not incur costs to be paid with grant funds unless they are reasonable, allocable, allowable, and necessary.
7. Metro 4 and SESARM shall evaluate salary rates to ensure that federal requirements are met. Certain consultant salaries are limited to no more than specified pay scale levels in the federal senior executive series. Such salaries do not include fringe benefits, travel costs, and other overhead. Metro 4 and/or SESARM shall not complete any procurement to which this paragraph applies without ensuring that this requirement is met.

**IX. DISADVANTAGED BUSINESS ENTERPRISES.**

- A. As indicated in Section III. F. of these Procurement Procedures, Metro 4 and SESARM are obligated under grant award conditions to ensure that disadvantaged business enterprises (DBEs – woman-owned and minority-owned) receive fair consideration during procurement processes supported by federal funds.
- B. Metro 4 and SESARM shall maintain awareness of DBE requirements and shall comply as completely as possible with all 40 CFR Part 33 *Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs* requirements and the following procedures:
  1. Make DBEs aware of contract opportunities to the fullest extent practicable through outreach and recruitment, by placing DBEs on solicitation lists, and by soliciting their bids on potential services which they qualify to provide;
  2. Make information on potential service opportunities available to DBEs and arrange timeframes for contracts and deliverables where possible in a way to encourage and facilitate DBE participation in competitive processes;
  3. Consider whether firms competing for large contracts could subcontract with DBEs;
  4. Encourage contracting with a consortium of DBEs when a project is too large for one DBE to handle alone;
  5. Require prime contractors to take the steps in Paragraphs 1-4 above when awarding subcontracts;
  6. For noncontractual procurements, search for potential DBE service providers and utilize their services when available DBE items and services are of desired quality, prices are competitive, and delivery of items and services will meet the necessary timeline for completing the procurement;

7. Use the resources of the Small Business Administration, the Minority Business Development Agency, the EPA Region 4 DBE advocacy office, and any other available resources, as applicable, to foster business with DBEs; and
8. Make reasonable attempts to develop and maintain a list of DBEs with ability to provide various needed services and contact them when specific items and services are needed, which DBEs may be capable of providing.

**X. FILE MAINTENANCE AND INSPECTION OF RECORDS**

- A. Documentation shall be maintained for each procurement, including, as applicable, solicitation and procurement of services, selection of a contractor, and establishment of a contract.
- B. For competitive contractual procurements, score sheets, significant internal communications, proposals, and preliminary documents shall remain solely the property of Metro 4 and/or SESARM and shall not be released to the public unless explicitly required by laws and/or regulations of the state in which the Metro 4/SESARM official office is located, or by a court with jurisdiction over Metro 4/SESARM's operations.
- C. Requests for proposals, descriptions of selection criteria, final contracts, and work products delivered as a result of contracts shall be made available for inspection upon receipt of a formal request for inspection of records by an interested party.
- D. All SESARM financial records, contracts, supporting documents, and all other records pertinent to a grant award and related expenditures shall be retained in accordance with federal requirements and the Metro 4/SESARM Records Management Policy and Procedures.

**XI. STANDARDS OF CONDUCT IN THE PROCUREMENT PROCESS.**

- A. Anyone directly involved with any procurement and/or management of SESARM contracts shall avoid any activity or situation which creates an appearance of, or actual, impropriety or conflict of interest.
- B. Members of the PRCS Committee shall not be formalized until each prospective member has submitted a certification form indicating that the individual has no conflict of interest with any bidder or the procurement process.
- C. The Chair and Vice Chair (or Co-chairs if applicable) of the PRCS Committee shall review these standards of conduct and the Metro 4/SESARM Conflict of Interest Policy at the first meeting of the committee and shall replace any member who subsequently develops a conflict of interest.



- D. No Metro 4/SESARM employee or representative or close relative or the Metro 4/SESARM representative's employer shall participate in a contract decision if that person has a financial interest in the decision.
- E. No Metro 4/SESARM employee or representative shall solicit or accept any gift, entertainment, or favor of tangible value from a contractor or prospective contractor.
- F. Metro 4/SESARM shall protect information that a bidder and/or contractor has declared to be confidential, provided that such information meets the legal qualifications to be declared confidential business information.
- G. Metro 4/SESARM shall conduct its procurement processes in a manner that treats all bidders, potential bidders, and proposals with objectivity, subject to fair consideration of the relative variabilities that will exist between bidders and their respective proposals.
- H. To the extent allowed by applicable laws and regulations, Metro 4/SESARM representatives shall maintain the integrity of the competitive process and the independence of contractor proposals by not divulging to external interests any detailed bid information before, during, or after an acquisition.
- I. Any Metro 4/SESARM representative participating in any contractual procurement of goods and/or services via any PRCS Committee, Project Work Group, or Board of Directors proceedings shall ask to be excused from any procurement role unless the individual can sign and submit to the following statement, or an equivalent statement:

“To the best of my knowledge, neither I nor any member of my family has a direct or indirect financial or employment interest in any of the firms submitting proposals for consideration and evaluation that would conflict with my participation in the selection process or create an appearance of, or actual, unfairness or conflict of interest. In the event that I later become aware of such a conflict of interest, I agree to report this determination to the Chair(s) of the PRCS Committee and/or the Metro 4/SESARM Executive Director and excuse myself from further participation in the procurement process.”
- J. Any Metro 4/SESARM employee who violates these conflict of interest requirements may be subject to disciplinary action, up to and including dismissal.
- K. Any Metro 4/SESARM member agency staff person who violates these conflict of interest requirements shall be subject to their employer being advised of the violation.

**XII. STATEMENT OF COMMITMENT TO RESPONSIBLE PROCUREMENT.**

- A. Metro 4 and SESARM are committed to conformance to these procurement procedures and shall require Metro 4/SESARM staff adherence to them on a continual basis.
- B. Through periodic Metro 4/SESARM staff evaluations, which may include review of contractor work products and office files, conformance with these Procurement Procedures shall be assessed and corrective measures shall be taken promptly to address any performance deficiencies identified.

**XIII. CERTIFICATION AND SIGNATURE.**

This certifies that these Procurement Procedures have been prepared for the exclusive use of Metro 4 and SESARM, that they will be made available to all Metro 4/SESARM staff and the Metro 4 and SESARM Boards of Directors, and that the requirements herein will be explained in adequate detail to ensure that all Metro 4/SESARM staff and representatives are aware of, comply with, and fully implement them.

Greg DeAngelo, Executive Director  
Metro 4/SESARM