SUPPLEMENTAL AGENDA

ACTION ITEMS

Item #11: Amend VVTA Procurement Policy 1070.  
Recommendation: Approve amendment to VVTA Procurement Policy: 1070.  
Presented by: Christine Plasting, Procurement Manager.
AGENDA MATTER

Amend VVTA Procurement Policy 1070.

SUMMARY STATEMENT

During the Federal Triennial Review, the Reviewer pointed out a new Federal Clause that must be included in all Federal procurements that exceed $25,000.00. This new clause:

"FTA Master Agreement §39 (b): Notice to FTA and U.S. DOT Inspector General of Information related to fraud, waste, abuse, or other legal matters. This applies to all contracts at all tiers expected to equal or exceed $25,000.00. The recipient must require a prime contractor to “flow-down” the requirement to subcontractors."

The addition of this clause was added to Policy 1070 2.1.15. on page 2 of the Procurement policy document. Also changed is the requirement for VVTA to review changes or new clauses annually to ensure that VVTA’s Procurement Policies and Procedures are up to date with all Federal requirements. This was added to 1.4 of Policy 1070.

This change has also been noted on Procurement Procedures 1070-1 2.36 on page 8 of the Procedures document.

RECOMMENDED ACTION

Approve amendment to VVTA Procurement Policy: 1070.

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<tr>
<td>Christine Plasting</td>
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<td>Procurement Manager</td>
<td>N/A</td>
<td>April 18, 2022</td>
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1. **GENERAL**

1.1. VVTA, as a recipient of federal assistance, is required to implement as part of its contracting program, a variety of federal laws and regulations regarding contractor labor relations, affirmative action for qualified handicapped individuals, domestic preference and environmental protection programs, an inspection and verification procedure to ensure compliance with VVTA’s specifications, Federal motor vehicle safety standards, and Buy America requirements.

1.2. This policy prescribes some of the applicable Federal laws and regulations for VVTA contracts and purchases, and where appropriate, indicates the specific contract types and dollar thresholds requiring contractual coverage.

1.3. VVTA Chief Financial Officer or their designee will assure that the required provisions are included in all appropriate solicitations and contracts.

1.4. The VVTA Procurement Manager or designee is responsible for reviewing annually the Federal References below to update VVTA’s Procurement Policies and Procedures with any new clauses or changes to the various regulations. The Procurement Manager will log into the FTA Oversite website, receive emails from the FTA, and attend training to ensure program compliance with all updated regulations.

2. **FEDERAL REFERENCES**

2.1. Federal references include the most recent version of the following documents:

2.1.1. U.S. Department of Transportation, Federal Transit Administration (FTA), Master Agreement for Federal Transit Administration Agreements.


2.1.3. 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

2.1.4. FTA Circular on *Third Party Contracting Requirements*, FTA 4220.1F (4) (or latest revision).

2.1.5. FTA Circular C5010.1-D.

2.1.6. Section 9(j) of the Urban Mass Transportation Act.


2.1.10. 49 CFR part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
2.1.11. 49 CFR part 19, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.
2.1.15. FTA Master Agreement §39 (b)

3. **REQUIRED CONTRACT PROVISIONS**

3.1. VVTA shall ensure that its contracts include all applicable Grantee Requirements as required by FTA regulations for all procurements utilizing FTA funds. Procurement Staff are directed to refer to the FTA Best Practices website for a current listing of Grantee Requirements and incorporate all applicable requirements for each FTA procurement.

4. **STATE AND LOCAL REFERENCES**


4.2. All other applicable federal, state and local laws, codes, regulations, and standards.
The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 USC Section 402 note, FTA encourages each third-party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include provision in each third-party subcontract involving the project. Additionally, VVTA is required by FTA to include a Distracted driving clause that addresses distracted driving, including text messaging in each of its third-party agreements supported with Federal assistance. Other regulations that apply to this regulation are Executive Order 13513 and US DOT Order NO. 3902.10.

2.32. Termination

All contracts in excess of $10,000.00 must address termination for cause and for convenience, including the manner by which it will be affected and the basis for settlement. As mandated by 2 CFR 200.339 and 2 CFR part 200, appendix II (B)

2.33. Violation and Breach of Contract

All contracts in excess of $250,000.00 shall contain administrative, contractual, or legal remedies in instances where contracts violate or breach contract terms and provide for such sanctions and penalties as appropriate. As mandated by 2 CFR 200.326 and 2 CFR part 200, Appendix II (A). (Liquidated Damages)

2.34. Government-Wide Debarment and Suspension

A contract award (of any tier) in an amount expected to equal or exceed $25,000.00 or a contract award at any tier for a federally required audit (Irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180.

2.35 No Government Obligation to Third Parties

Purchasing Staff ensures inclusion of the clause is included in all third-party contracts that are federally funded.

2.36 Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters. Applies to all contracts at all tiers expected to equal or exceed $25,000.00. The recipient must require a prime contractor to “flow-down” the requirement to subcontractors. FTA Master Agreement §39 (b)