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## Policies and Procedures

No. 31

**SUBJECT:**

**Board Approval:** 3/25/04

PROVIDING TRANSIT SERVICES

**PURPOSE:**

To establish a process for competitive award of transit services.

**BACKGROUND:**

Public Utilities Code Section 120265 et seq. requires that the Board provide a system of regional transit services for its area of jurisdiction to be funded from the regional transit service fund established by the Board. It also stipulates that the Board may provide the regional transit services by the following means:

- Directly providing the services.
- By contract with San Diego Transit Corporation (SDTC).
- By contract with any other provider of services as it deems appropriate.

This code section also states that the Board may provide the regional transit services upon the terms and conditions that the Board finds in its best interests.

This policy relates to any publicly subsidized transit service that may be considered for competitive award by MTS and sets forth minimum policy requirements for contractor compliance.

**POLICY:**

- 31.1 Contracting Authority. MTS will endeavor to provide high-quality public transit service in the most cost-effective manner possible. To achieve this end, MTS will retain complete authority to contract out particular transit services to any experienced public or private operator judged best able to provide the most cost-effective service.
- 31.2 Competitive Award Service Guidelines. Constructive competition for provision of services will be encouraged. An annual review of existing SDTC services for potential competitive award will be included in the MTS Short-Range Transit Plan



(SRTP) development process. The following list provides a guideline as to what services are potentially most suitable for competitive award:

- New routes added to the existing MTS and new special services.
- Existing routes or services operating by contract with MTS that were competitively awarded.
- Evening or weekend service that is an extension of an existing route but does not mix with existing service.
- Major restructuring of existing routes to the extent that it can be accomplished without causing major employee layoffs. In the event of major state or federal funding cutbacks, employee layoffs may be required as part of a restructuring of routes and services.

A committee shall be established as part of the annual review. The purpose of the committee shall be to identify the service to be considered for competitive bidding and to determine how the routes and services shall be packaged for bidding. The committee shall consist of the following representatives:

- MTS Director of Multimodal Operations
- SDTC Vice President of Operations
- Private-sector representative
- Representative from a local transit labor unit
- Representative from the private sector (e.g., Chamber of Commerce)

A recommendation of routes and services for competitive award shall be made to the MTS Chief Executive Officer. Final selection of the routes and services to be competitively bid will be the responsibility of the MTS Chief Executive Officer. The routes and services to be competitively bid shall be included in the SRTP. Once the SRTP is adopted by the MTS Board, the Request for Proposals (RFP) and price bids shall be distributed for those routes and services.

When possible, the implementation of service improvements to be operated by SDTC and routes and services to be operated by a private contractor shall be coordinated so as to avoid or minimize employee layoffs.

- 31.3 Determination of Award of Transit Services. A bidding process shall be used to acquire information regarding cost of the routes and services for determining award of transit services. The cost information will be evaluated and a recommendation will be made by the Chief Executive Officer to the Board. The Board may elect to award a contract for routes and services directly to SDTC or a private contractor.
- 31.4 Directly Providing the Services. Should the Board elect to directly provide the routes and services, it shall develop and adopt a separate set of operation policies and procedures relating to the administration, financing, planning, and operation of the transit services.

- 31.5 Directly Contracting with SDTC. Should the Board elect to contract for routes and services with SDTC, it will adhere to MTS's policies for operating corporations.
- 31.6 Competitive Award Process. The competitive award process will utilize a two-step evaluation sequence. The RFP to potential public and private-sector bidders will request separate proposal and bid packages. Step 1 will involve judging the proposal and eliminating nonresponsive bidders in accordance with Policy Section 31.6d. Step 2 will involve opening the bid packages of responsive bidders. The award process shall include the following events:
- a. Issuance of the RFP. MTS will issue an RFP, which delineates the services to be provided, the terms of the contract, any evaluation criteria, contract performance specifications, and the selection process to be used in determining the successful contractor for services. The RFP will also request a separately bound price package be transmitted with the proposal. In addition, MTS will provide public notice and advertisement of the RFP in a newspaper of general circulation at least 21 calendar days prior to the deadline for receipt of proposals. RFPs shall also be sent to a list of prospective bidders.
  - b. Preproposal Conference. MTS will hold a preproposal conference for prospective proposers at least 15 days prior to the deadline for receipt of proposals. The purpose of the preproposal conference is to fully describe the services to be contracted out and to answer any questions from prospective proposers and provide any additional information pertinent to the RFP.
  - c. Receipt of Qualifications. Proposers shall be required to submit a proposal containing all information necessary to judge their qualifications and experience to perform the work as outlined in the RFP. Any public operator shall comply with provisions of Policy Section 31.7.
  - d. Evaluation of Proposals. All proposals will be reviewed by the MTS Chief Executive Officer, with assistance from an evaluation panel, in accordance with the criteria specified in the RFP such as:
    - experience of firm and references
    - financial stability
    - disadvantaged and women business enterprise status
    - management plan, including key personnel to be assigned
    - ability to furnish vehicles in suitable quantity and condition and in conformance with service specifications
    - California Highway Patrol Safety reports or similar independent maintenance and/or safety reports
  - e. Evaluation of Price Bids. Only the price packages of responsive bidders will be opened by the Chief Executive Officer. All other price packages will be returned unopened to the original bidders. Price bids shall be

submitted in a format prescribed by MTS. The price bid format shall include a procedure for public operators that is consistent with Section 31.7 whereby a cost-allocation plan is disclosed. Furthermore, this format shall be consistent with the State of California Transportation Development Act legal requirements for reporting and detailed in the expense object classes. The detailed pricing sheets of the price bids of responsive bidders will be examined by MTS for responsiveness. All line item prices shall be reasonable (competent and otherwise able to perform under any resulting contract) for a bid to be considered responsive.

- f. Recommendations to Board. Following the review of price bids, the Chief Executive Officer will recommend award or rejection based upon the bids received. MTS reserves the right to reject all bids, readvertise the project, and restructure the project in part or whole.

31.7 Statement of Compliance with Cost-Allocation Procedures for Operators

- a. A proposal submitted by a public transit operator shall contain a statement of compliance regarding cost-allocation procedures. The statement of compliance must be certified by the public transit operator's governing board and legal counsel. The statement of compliance shall include (a copy of) the cost-allocation plan used to develop the bid price(s) for the proposed transit services. The cost-allocation plan shall allocate all costs that the public operator will incur in operating the service, including overhead and support services. The basis for allocating all costs, including overhead and support costs, shall be shown.
- b. MTS shall review the statement of compliance submitted by the public operator for its completeness, accuracy, and reasonableness. Based upon review of the statements, MTS may take one or more of the following actions:
  - 1. Accept the statement of compliance.
  - 2. Request additional supporting documentation from the public operator needed to verify the amounts presented in the statement.
  - 3. Reject the statement of compliance and disqualify proposer as nonresponsive to the RFP due to inaccuracy, incompleteness, or unreasonableness.
- c. MTS may require a review of the cost allocation and the resulting bid to assess the compliance with the requirements in Section 31.7a or to review pricing proposals from public or private contractors to ensure the price proposals are responsive.
- d. MTS's review of the statement of compliance will be performed following the opening of sealed price bids.

31.8 Cost-Comparison Analysis. Pursuant to the provisions of California Public Utilities Code Section 99250.5, a private transportation service provider may request a cost-comparison analysis at a publicly noticed meeting of the Board before the Board acts on bus-route restructuring or a service addition.

The Board may agree to perform a cost-comparison analysis on the condition that the private transportation service provider requesting the analysis agrees to pay the actual cost of conducting the analysis. The private transportation service provider shall supply any information necessary and relevant to complete the analysis. The results of the analysis shall be reported to the MTS Board at a publicly noticed meeting.

The Board is not required to perform the requested cost-comparison analysis. However, if the Board decides not to perform the analysis, it shall specify the reasons for that decision in a resolution adopted at a publicly noticed meeting.

For purposes of this section, "cost-comparison analysis" means a study of the route restructuring or service addition under consideration that compares the cost to the operator of directly providing those services to the cost of procuring those services from private entities. The study shall utilize a full cost-allocation method that is consistent with generally accepted cost-allocation principles.

"Route restructuring" means a permanent change in routing that changes the total number of daily revenue miles or hours by 25 percent or more.

"Service addition" means an increase in the total number of daily revenue miles or hours on an existing route by 50 percent or more.

#### 31.9 Statement of Compliance for Charitable, Nonprofit Organizations

- a. To ensure that nonprofit, charitable organizations bidding on MTS transit service contracts are in compliance with the requirements set forth by the MTS Board of Directors, a proposal submitted by such an organization shall include documentation to show that all financing and costs associated with the proposal and bid are financially independent of the organization's charitable activities. Such documentation must be attached to the bidder's technical proposal. The nonprofit, charitable organization shall provide a certification from its governing board certifying that any bid for the services proposed shall be priced in a manner to be totally independent and without subsidy from the organization's charitable functions and revenues.
- b. MTS shall review the certification provided by the organization's governing board for its completeness, reasonableness, and compliance with the intentions of section "a" above. Based upon review of the statements, MTS may take one or more of the following actions:
  1. Accept the Statement of Compliance for charitable, nonprofit organizations.
  2. Request additional supporting documentation from the charitable, nonprofit organization needed to verify the financial independence of the proposal and price bid from the organization's charitable functions and revenues.
  3. Reject the Statement of Compliance for charitable, nonprofit organizations and disqualify proposer as nonresponsive to the RFP due to incompleteness, unreasonableness, or noncompliance with the intentions of section "a" (above).

MTS's review of the Statement of Compliance for charitable, nonprofit organizations will be performed concurrently with the review of the proposals.

- 31.10 Setting Responsible Wages and Benefits. MTS will include as part of the bid documents a minimum wages and benefits requirement for vehicle drivers operated as a result of a bus, mini-bus, van, or other service contract. The purposes of this requirement are: to retain fully trained, qualified and experienced drivers; to provide a high level of quality transit service to the transit patrons; and to reduce absenteeism and driver turnover.
- a. Base Wage Level – In advance of the initiation of a bid process, MTS will conduct an analysis to develop minimum wage-level requirements for the term of the contract. For purposes of the analysis, a base wage rate is established at \$8.35 per hour for July 1, 2000, for drivers after a training and probation period. The analysis will identify a cost of living index (based on prior five-year average San Diego Consumer Price Index) for each future year as a starting point for establishing a minimum wage each year of the future contract. All existing MTS-contracted vehicle driver wage rates and all existing labor agreements of the MTS-contracted vehicle driver, entered into after the effective date of this section, will then be reviewed. The initial starting point wage rate based on the five-year average San Diego Consumer Price Index would be adjusted to ensure consistency with existing transit service contracts for the remaining years of those contracts. Any years in a new contract that are beyond the termination of an existing contract would be calculated based on the five-year average San Diego Consumer Price Index.
  - b. Training Wage Level – MTS shall set a level no less than 90 percent of the base wage level after probation. Training pay shall not exceed 160 hours. If additional training is required beyond 160 hours, the employee shall be paid at the wage level of probation wage after certification.
  - c. Probation Wage After Certification – A driver who is in training and exceeds 160 hours or who has been certified as a driver shall have a minimum wage level set by MTS of no less than 95 percent of the base wage level for a period not to exceed 90 days after completion of training.
  - d. The above wage categories shall be established as minimums in the contract bid requirements and are base driver wage levels excluding benefits and any performance bonuses. These minimum wage categories shall apply to full-time and part-time drivers of contract services.
  - e. Health Benefits – MTS shall include in bid documents the requirement for the contractor to offer full-time and part-time vehicle drivers (20 hours or more per week) a family health plan based on a minimum employer contribution. The minimum contribution for the health benefit is established at \$1.25 per hour for July 1, 2000. The health benefit plan contribution standard would be indexed based on the prior five-year average San Diego Consumer Price Index for each year of the contract to be awarded.

- f. The requirements of this section shall not apply to proposers and contractors whose vehicle drivers are subject to a collective bargaining agreement.

31.11 Contract Term. The term of any award (i.e., period of performance), resulting from Section 31.6 above, will generally depend upon the number of vehicles required and will be subject to termination for breach. It is anticipated that the contract period will not be longer than five years, including any options exercised, nor shorter than two years. Option periods will be allowed not to exceed the basic term. Shorter terms may be allowed for demonstration services to be implemented.

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