

GRAYSON COUNTY
REGIONAL MOBILITY AUTHORITY
POLICY CODE

CURRENT AS OF OCTOBER 12, 2023

GRAYSON COUNTY
REGIONAL MOBILITY AUTHORITY
POLICY CODE

CURRENT AS OF OCTOBER 12, 2023

GRAYSON COUNTY RMA POLICY CODE

Chapter 2: PROCUREMENT OF GOODS AND SERVICES

Article I. GENERAL

201.001 Statement of General Policy.

It is the policy of the Grayson County Regional Mobility Authority (the “GCRMA” or “Authority”) that all Authority procurements shall be based solely on economic and business merit in order to best promote the interests of the citizens of the area served by the Authority. In order to assist the Authority in its procurements, the Grayson County Purchasing Department may, upon written request of the Authority, administer the procurement of goods and services which is the subject of the Authority’s request, pursuant to the policies set forth herein.

201.002 Definitions.

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

- A. Available bidding capacity: Bidding capacity less uncompleted work under a construction or building contract.
- B. Bid or quote: The response to a request for the pricing of products, goods, or services (other than professional services or certain consulting services) that the Authority proposes to procure.
- C. Bid documents: Forms promulgated by the Authority which the bidder completes and submits to the Authority to document the bidder's bid on a contract to be let by the Authority. Bid documents promulgated by the Authority for a procurement will include the following information:
 - 1. the location and description of the proposed work;
 - 2. an estimate of the various quantities and kinds of work to be performed and/or materials to be furnished;
 - 3. a schedule of items for which unit prices are requested;
 - 4. the time within which the work is to be completed;
 - 5. any special provisions and special specifications; (vi) the amount of bid guaranty, if any, required; and
 - 6. the Authority's goals regarding the participation in the contract or in subcontracts let under the contract by Disadvantaged Business Enterprises, in accordance with the Authority's policies regarding such participation.
- D. Bid guaranty: The security designated in the bid documents for a construction or building contract to be furnished by the bidder as a guaranty that the bidder will enter into a contract if awarded the work.

GRAYSON COUNTY RMA POLICY CODE

- E. Bidder: An individual, partnership, limited liability company, corporation or any combination submitting a bid or offer of goods or services.
- F. Bidding capacity: The maximum dollar value a contractor may have under a construction or building contract at any given time, as determined by the Authority.
- G. Building contract: A contract for the construction or maintenance of an authority building, toll plaza, or appurtenant facilities.
- H. Comprehensive Development Agreement: An agreement with a private entity that at a minimum provides for the design and construction of a transportation project, that may also provide for the financing, acquisition, maintenance or operation of a transportation project, and that entitles the private entity to a leasehold interest in the transportation project or the right to operate or retain revenue from the operation of the transportation project.
- I. Construction contract: A contract for the construction, reconstruction, maintenance, or repair of a segment of a transportation project, including a contract let to preserve and prevent further deterioration of a transportation project.
- J. Consulting service: The service of advising or preparing studies or analyses for the Authority under a contract that does not involve the traditional relationship of employer and employee. Except in connection with comprehensive development agreements consulting services may not be procured under a construction or building contract. Consulting services are not professional services or general goods and services as defined by this chapter.
- K. Design-build or design-build-finance agreement: An agreement with a private entity that provides for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project but does not grant the private entity a leasehold interest in the transportation project or the right to operate or retain revenue from the operation of the transportation project.
- L. Design-build contractor: A partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of transportation projects in the State of Texas and that is selected by the Authority in accordance with Chapter 2, Article 7 of this policy.
- M. Emergency: Any situation or condition affecting a transportation project resulting from a natural or man-made cause, which poses an imminent threat to life or property of the traveling public or which substantially disrupts or may disrupt the safe and efficient flow of traffic and commerce or which has caused unforeseen damage to machinery, equipment or other property which would substantially interfere with or prohibit the collection of tolls in accordance with the Authority's bonding obligations and requirements.
- N. Executive director: The executive director of the Authority or any individual designated by the Board to act as the chief administrative officer of the Authority.

GRAYSON COUNTY RMA POLICY CODE

- O. Federal-aid project: The construction, reconstruction, maintenance, or repair of a segment of a transportation project, including a contract let to preserve and prevent further deterioration of a transportation project, funded in whole or in part with funds provided by the government of the United States or any department thereof.
- P. General goods and services: Goods, services, equipment, personal property and any other item procured by the Authority in connection with the fulfillment of its statutory purposes that are not procured under a construction or building contract or that are not consulting services or professional services as defined by this chapter.
- Q. Highway: A road, highway, farm-to-market road, or street under the supervision of a state or political subdivision of the State.
- R. Intermodal hub: A central location where cargo containers can be easily and quickly transferred between trucks, trains and airplanes.
- S. Jurisdiction of the Authority: Grayson County.
- T. Lowest best bidder: The lowest responsible bidder on a contract that complies with the Authority's criteria for such contract, as described in this chapter.
- U. Materially unbalanced bid: A bid, as may be more particularly defined in the bid documents, on a construction or building contract which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Authority.
- V. Mathematically unbalanced bid: A bid, as may be more particularly defined in the bid documents, on a construction or building contract containing lump sum or unit bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs.
- W. Nonresident bidder: A person who is not a resident of Texas.
- X. Official newspaper of the Authority: A general circulation newspaper published in the jurisdiction of the Authority. If there are multiple newspapers which are published in the jurisdiction of the Authority, the board shall designate which one is the official newspaper of the Authority.
- Y. Professional services: Services which political subdivisions of the State must procure pursuant to the Professional Services Procurement Act, which are services defined by state law of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing; or services provided in connection with the employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician (including a surgeon), an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse. Except in connection with a comprehensive development agreement professional services may not be procured under a construction or building contract.

GRAYSON COUNTY RMA POLICY CODE

- Z. Professional Services Procurement Act: Subchapter A, Chapter 2254. Government Code, as amended from time to time.
- AA. Public Utility Facility: A
1. water, wastewater, natural gas, or petroleum pipeline or associated equipment;
 2. an electric transmission or distribution line or associated equipment; or
 3. telecommunications information services, or cable television infrastructure or associated equipment, including fiber optic cable, conduit and wireless communications facilities.
- BB. Salvage property: Personal property (including, without limitation, supplies, equipment, and vehicles), other than items routinely discarded as waste, that through use, time, or accident is so damaged, used, consumed, or outmoded that it has little or no value to the Authority.
- CC. Surplus personal property: Personal property (including, without limitation, supplies, equipment, and vehicles) that is not currently needed by the Authority and is not required for the Authority's foreseeable needs. The term includes used or new property that retains some usefulness for the purpose for which it was intended or for another purpose.
- DD. Surplus real property: Real property, including transportation project right-of-way, that is not currently needed by the Authority and is not required for the Authority's foreseeable needs.
- EE. State: The State of Texas.
- FF. System: A transportation project or a combination of transportation projects designated as a system by the board in accordance with § 370.034, Transportation Code.
- GG. Transportation Project: Includes a(n):
1. turnpike project;
 2. system;
 3. passenger or freight rail facility, including (i) tracks; (ii) a rail line; (iii) switching, signaling, or other operating equipment; (iv) a depot; (v) a locomotive; (vi) rolling stock; (vii) a maintenance facility; and (viii) other real and personal property associated with a rail operation;
 4. roadway with a functional classification greater than a local road or rural minor collector;
 5. a bridge;
 6. ferry;
 7. airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. § 1.1 on that date;

GRAYSON COUNTY RMA POLICY CODE

8. pedestrian or bicycle facility;
 9. intermodal hub;
 10. automated conveyor belt for the movement of freight;
 11. border crossing inspection station, including; (i) a border crossing inspection station located at or near an international border crossing; and (ii) a border crossing inspection station located at or near a border crossing from another state of the United States and not more than 50 miles from an international border;
 12. air quality improvement initiative;
 13. public utility facility;
 14. a transit system;
 15. a parking area, structure, or facility, or a collection device for parking fees;
 16. projects and programs listed in the most recently approved state implementation plan for the area covered by the Authority, including an early action compact;
 17. improvements in a transportation reinvestment zone designated under Subchapter E, Chapter 222, Texas Transportation Code; and
 18. port security, transportation, or facility projects eligible for funding under § 55.002, Texas Transportation Code.
- HH. Turnpike Project: A highway of any number of lanes, with or without grade separations, owned or operated by the Authority and any improvement, extension or expansion to the highway, including:
1. an improvement to relieve traffic congestion or promote safety;
 2. a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll house, service road, ramp, or service station;
 3. an administration, storage, or other building the board considers necessary to operate the project;
 4. property rights, easements and interests the board acquires to construct or operate the project;
 5. a parking area or structure, rest stop, park, and any other improvement or amenity the board considers necessary, useful, or beneficial for the operation of a turnpike project; and
 6. a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, or tunnel.
- II. TxDOT: The Texas Department of Transportation.

GRAYSON COUNTY RMA POLICY CODE

Article V. CONSULTING SERVICES

201.018 Contracting for Consulting Services.

The Authority may contract for consulting services if the executive director reasonably determines that the Authority cannot adequately perform the services with its own personnel.

201.019 Selection Criteria.

The Authority shall base its selection on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services.

201.020 Contract Amounts.

A. The Authority may procure consulting services anticipated to cost no more than \$50,000 by such method and on such terms as the executive director determines to be in the best interests of the Authority. Without limiting the foregoing, the executive director may procure consulting services anticipated to cost no more than \$50,000 pursuant to a “single-source contract,” if the executive director determines that only one prospective consultant possesses the demonstrated competence, knowledge, and qualifications to provide the services required by the Authority at a reasonable fee and within the time limitations required by the Authority.

B. Consulting services anticipated to cost more than \$50,000 shall be procured by the Authority's issuance of either a Request for Qualifications (“RFQ”) or a Request for Proposals (“RFP”) as the Authority deems appropriate.

201.021 Request for Qualifications.

Each RFQ prepared by the Authority shall invite prospective consultants to submit their qualifications to provide such services as specified in the RFQ. Each RFQ shall describe the services required by the Authority, the criteria used to evaluate proposals, and the relative weight given to the criteria. In procuring consulting services through issuance of a RFQ, the Authority shall follow the notices set forth in Section 201.032 of this chapter.

201.022 Request for Proposals.

A. Each RFP shall contain the following information:

1. the Authority’s specifications for the service to be procured;
2. an estimate of the various quantities and kinds of services to be performed;
3. a schedule of items for which unit prices are requested, if applicable;
4. the time within which the contract is to be performed;
5. any special provisions and special specifications; and

GRAYSON COUNTY RMA POLICY CODE

6. if applicable, the Authority's goals regarding the participation in the contract or in subcontracts let under the contract by Disadvantaged Business Enterprises. The Authority shall give public notice of a RFP in the manner provided for requests for competitive bids for general goods and services.

- B. In procuring consulting services through issuance of a RFP, the Authority shall follow the notices set forth in Article IV., Section 201.024 for the procurement of general goods and services.

201.023 Notice of RFQs and RFPs.

- A. Notice of the issuance of a RFQ or RFP must provide:
1. the date, time, and place where responses to the RFQ or RFP will be opened;
 2. the address and telephone number from which prospective proposers may request the RFQ or RFP; and
 3. a general description of the type of services being sought by the Authority.
- B. Alternatively, the Authority may publish and otherwise distribute, in accordance with these procedures, the RFQ or RFP itself in lieu of publishing a notice of issuance of a RFQ or RFP.
- C. The Authority shall publish the notice of issuance of a RFQ or RFP on its website and shall either:
1. publish notice of the issuance of a RFQ or RFP, or the content of the RFQ or RFP itself, in an issue of the Texas Register; or
 2. publish in the official newspaper of the Authority notice of the issuance of a RFQ or RFP, or the content of the RFQ or RFP itself, once at least two weeks before deadline for the submission for responses in the official newspaper of the Authority.
- D. The Authority may, but shall not be required to, solicit responses to a RFQ or RFP by direct mail, telephone, advertising in trade journals or other locations, or via the Internet. If such solicitations are made in addition to the required publications, the prospective bidder may not be solicited by mail, telephone and internet or in any other manner, nor may the prospective bidder receive bid documents until such time that notice of the RFP or RFP has been made available on the Authority's website.
- E. The date specified in the RFQ or RFP as the deadline for submission of responses may be extended if the executive director determines that the extension is in the best interest of the Authority. All responses, including those received before an extension is made, must be opened at the same time.

201.024 Opening and Filing of Responses; Public Inspection.

The Authority shall avoid disclosing the contents of each response to a RFQ on opening the response and during negotiations with competing respondents. The Authority shall file each response in a

GRAYSON COUNTY RMA POLICY CODE

register of responses, which, after a contract is awarded, is open for public inspection unless the register contains information that is excepted from disclosure as an open record.

201.025 Contract Negotiation and Execution.

A. With regard to consulting services procured through issuance of a RFQ, the Authority shall submit a written contract to the respondent (the “first choice candidate”) whose response best satisfies the Authority’s selection criteria. If the Authority and the first choice candidate cannot agree on the terms of a contract, the Authority may terminate negotiations with the first choice candidate, and, at the exclusive option of the Authority, the Authority may enter into contract negotiations with the respondent (“second choice candidate”) whose response is the next most favorable to the Authority. If agreement is not reached with the second choice candidate, the process may be continued with other respondents in like manner, but the Authority shall have no obligation to submit a contract to the next highest-ranked respondent if the Authority determines that none of the remaining responses is acceptable or that continuing with the procurement is not within the best interest of the Authority.

B. With regard to consulting services procured through issuance of a RFP, the Authority shall submit a written contract to the offeror (the “first-choice candidate”) whose proposal is the most advantageous to the Authority, considering price and the evaluation factors in the RFP. The terms of the contract shall incorporate the terms set forth in the RFP and the proposal submitted by the first choice candidate, but if the proposal conflicts with the RFP, the RFP shall control unless the Authority elects otherwise. If the Authority and the first choice candidate cannot agree on the terms of a contract, the Authority may elect not to contract with the first choice candidate, and at the exclusive option of the Authority, may submit a contract to the offeror (“second-choice candidate”) whose proposal is the next most favorable to the Authority. If agreement is not reached with the second choice candidate, the process may be continued with other offerors in like manner, but the Authority shall have no obligation to submit a contract to the next highest-ranked offeror if the Authority determines at any time during the process that none of the remaining proposals is acceptable or otherwise within the best interest of the Authority.

201.026 Single-Source Contracts.

If the executive director determines that only one prospective consultant possesses the demonstrated competence, knowledge, and qualifications to provide the services required by the Authority at a reasonable fee and within the time limitations required by the Authority, consulting services from that consultant may be procured without issuing a RFQ or RFP. Provided, however, that the executive director shall justify in writing the basis for classifying the consultant as a single-source and shall submit the written justification to the board. The justification shall be submitted for board consideration prior to contracting with the consultant if the anticipated cost of the services exceeds \$50,000. If the anticipated cost of services does not exceed \$50,000, the executive director, with the prior approval of the Executive Committee, may enter into a contract for services and shall submit the justification to the board at its next regularly scheduled board meeting.

GRAYSON COUNTY RMA POLICY CODE

201.027 Prior Employees.

Except as otherwise provided by state or federal law or for those employment positions identified in a resolution of the board, nothing shall prohibit the Authority from procuring consulting services from an individual who has previously been employed by the Authority or by any other political subdivision of the state or by any state agency; provided, that if a prospective consultant has been employed by the Authority, another political subdivision, or a state agency at any time during the two years preceding the making of an offer to provide consulting services to the Authority, the prospective consultant shall disclose in writing to the Authority the nature of his or her previous employment with the Authority, other political subdivision, or state agency; the date such employment was terminated; and his or her annual rate of compensation for the employment at the time of termination.

201.028 Mixed Contracts.

This article applies to a contract that involves both consulting and other non-professional services if the primary objective of the contract is the acquisition of consulting services.

Article VI. PROFESSIONAL SERVICES

201.029 General.

Except as otherwise permitted by Chapter 370, Transportation Code, the Authority shall procure all professional services governed by the Professional Services Procurement Act in accordance with the requirements of that Act. In the event of any conflict between these policies and procedures and the Professional Services Procurement Act, that Act shall control.

201.030 Selection of Provider; Fees.

A. The Authority may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award based on the provider's:

1. demonstrated competence and qualifications to perform the service, including pre-certification by TxDOT; and

2. ability to perform the services for a fair and reasonable price. B. The

professional fees under the contract:

1. may be consistent with and must not be higher than the recommended practices and fees published by any applicable professional associations and which are customary in the area of the Authority; and

2. may not exceed any maximum provided by law.

GRAYSON COUNTY RMA POLICY CODE

201.031 Request For Qualifications.

- A. In order to evaluate the demonstrated competence and qualifications of prospective providers of professional services, the Authority shall invite prospective providers of professional services to submit their qualifications to provide such services as specified in a Request for Qualifications (“RFQ”) issued by the Authority.
- B. Each RFQ for professional services shall describe the services required by the Authority, the criteria used to evaluate proposals, and the relative weight given to the criteria.

201.032 Notice of RFQs.

- A. Notice of the issuance of a RFQ for professional services must provide:
1. the date, time, and place where responses to the RFQ will be opened,
 2. the contact or location from which prospective professional service providers may request the RFQ, and
 3. a general description of the type of professional services being sought by the Authority.
- B. Alternatively, the Authority may publish or otherwise distribute, in accordance with these procedures, the RFQ itself in lieu of publishing a notice of RFQ. Neither a notice of a RFQ for professional services, nor any RFQ itself shall require the submission of any specific pricing information for the specific work described in the RFQ, and may only require information necessary to demonstrate the experience, qualifications, and competence of the potential provider of professional services.
- C. The Authority shall publish on its website (<https://www.co.grayson.tx.us/page/rma.home>) all notices of the issuance of a RFQ and/or the entirety of the RFQ itself at least two weeks prior to the deadline for the responses.
- D. The Authority may also publish notice of the issuance of a RFQ, or the content of the RFQ itself, in an issue of the *Texas Register*, and in newspapers, trade journals, or other such locations as the Authority determines will enhance competition for the provision of services.
- E. The date specified in the RFQ as the deadline for submission of responses may be extended if the executive director determines that the extension is in the best interest of the Authority.

201.033 Contract for Professional Services.

- A. In procuring professional services, the Authority shall:
1. first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
 2. then attempt to negotiate with that provider a contract at a fair and reasonable price.

GRAYSON COUNTY RMA POLICY CODE

- B. If a satisfactory contract cannot be negotiated with the most highly qualified provider of professional services, the Authority shall:
1. formally end negotiations with that provider;
 2. select the next most highly qualified provider; and
 3. attempt to negotiate a contract with that provider at a fair and reasonable price.
- C. The Authority shall continue the process described in this section to select and negotiate with providers until a contract is entered into or until it determines that the services are no longer needed or cannot be procured on an economically acceptable basis.
- D. The Authority may terminate a procurement of professional services pursuant to this section 201.033 at any time upon a determination that a continuation of the process is not in the Authority's best interest.

Article VII. CONSTRUCTION AND BUILDING CONTRACTS

201.034 Competitive Bidding.

A contract requiring the expenditure of public funds for the construction or maintenance of the Authority's transportation projects may be let by competitive bidding in which the contract is awarded to the lowest responsible bidder that complies with the Authority's criteria for such contract, and such bidder shall constitute the lowest best bidder in accordance with this article. Bidding for procurements made by competitive bidding will be open and unrestricted, subject to the procedures set forth in this article.

201.035 Qualification of Bidders.

A potential bidder must be qualified to bid on construction contracts of the Authority. Unless the Authority elects, in its sole discretion, to separately qualify bidders on a construction project, only bidders qualified by TxDOT to bid on construction or maintenance contracts of TxDOT will be deemed qualified by the Authority to bid on the Authority's construction contracts. At its election, the Authority may waive this section with respect to bidders on building contracts.

201.036 Qualifying with the Authority.

- A. If the Authority elects under Sec. 201.035 to separately qualify bidders on a construction project, the Authority will require each potential bidder to submit to the Authority an application for qualification to include:
1. a questionnaire in a form prescribed by the Authority, which may require the potential bidder to provide information concerning that bidder's:
 - a. ability, capacity, equipment, skill, experience, and financial resources needed to perform the contract or provide the services required;