

# **Recommendation to Increase President & Chief Executive Officer's and General Counsel's Contract Award Delegation**

Administration Committee  
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Vice President, Procurement



# Purpose

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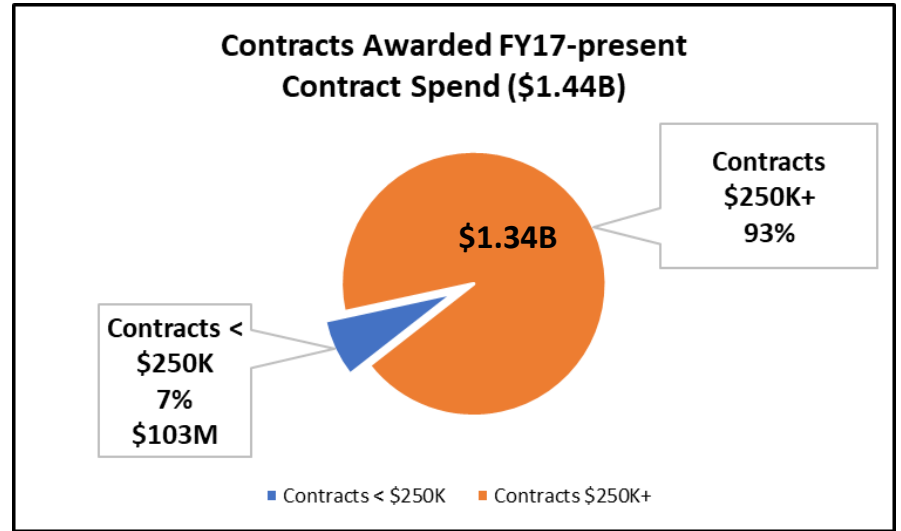
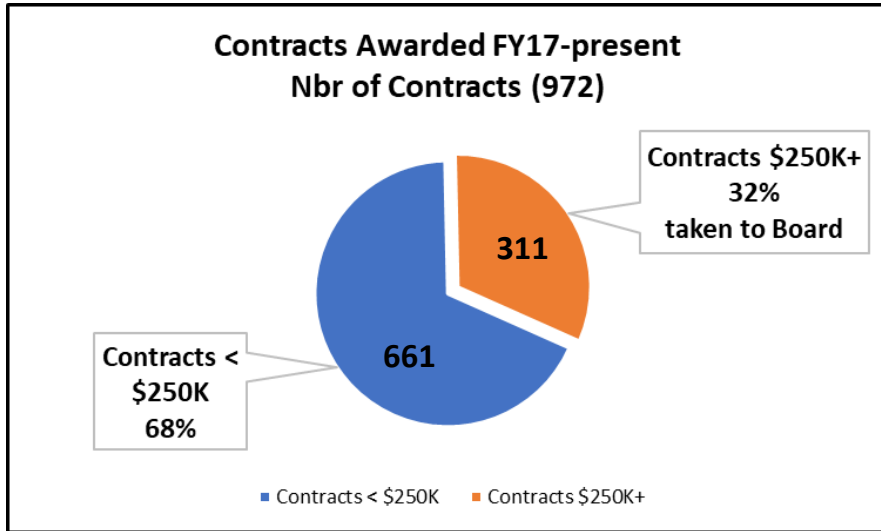
- To provide the Board of Directors contract and contract modification history
- Recommend an increase to the President & CEO's and General Counsel's Contracting Authority and establish a preferred contract term for DART contracts
- Benefits of the increase in Contracting Authority include:
  - Reduction in procurement timelines by 6-8 weeks
  - Faster start on projects
  - Assists in streamlining Board meetings
- Benefits of the preferred contract term for DART contracts:
  - Increase in supplier interest in DART contracts
  - Longer contracts are more efficient in managing performance

# Background

- Administrative Policy PRO-01 (2/9/2011) delegates from the Board of Directors to the President & Chief Executive Officer and General Counsel procurement authority in the following amounts:
  - Up to \$250,000 for new contracts
  - Up to \$50,000 for contract modifications above contracts the Board has approved.
  - General Counsel-up to \$50,000 for legal services.
- There is currently not a preferred contract term established and our contract terms vary from one-year to five-years with various terms that include option years

# Procurement Contracts

## Contracts taken to Board for approval



\*NOTE: \$1.2B Silver Line contract removed as outlier from analysis

# Procurement Contracts

## Distribution across various ranges

DISTRIBUTION OF CONTRACTS TAKEN TO DART BOARD FY17 - present		
AWARD RANGE	COUNT	SPEND
\$250K-300K	24	\$6,402,270.77
\$300K-400K	35	\$12,401,361.95
\$400K-500K	21	\$9,380,934.08
\$500K-750K	41	\$25,140,867.41
\$750K-1M	28	\$25,198,768.08
\$1M-2.5M	68	\$107,493,903.82
\$2.5M-5M	45	\$164,529,995.25
\$5M-10M	26	\$175,558,680.58
\$10M-100M	21	\$468,865,236.50
\$100M-500M	2	\$341,716,659.00
\$500M-1B	0	\$0.00
<b>\$1B+</b>	<b>1</b>	<b>\$1,231,560,875.00</b>
<b>TOTAL \$250K+</b>	<b>312</b>	<b>\$2,568,249,552.44</b>

\*NOTE: \$1.2B Silver Line contract removed as outlier from analysis

# Procurement Contracts

## Impacts to contracts (#/\$) taken to Board

<b>IF THRESHOLD SET TO:</b>	<b>Board would still approve this many (count):</b>	<b>...or this percentage (count)</b>	<b>Board would still approve this % of spend:</b>
\$250K (current)	266	100.0%	100.0%
<b>\$300K</b>	242	90.6%	99.5%
<b>\$400K</b>	212	79.4%	98.5%
<b>\$500K</b>	195	73.0%	97.9%
<b>\$750K</b>	159	59.6%	96.0%
<b>\$1M</b>	133	49.8%	94.2%
<b>\$2.5M</b>	74	27.7%	86.5%
<b>\$5M</b>	40	15.0%	76.1%
<b>\$10M</b>	17	6.4%	62.7%
<b>\$100M</b>	2	0.7%	32.7%
<b>\$500M</b>	0	0.0%	0.0%

\*NOTE: \$1.2B Silver Line contract removed as outlier from subsequent analysis

# Comparison to other Transit Agencies

Agency	Delegated Contract Authority-P&CEO	Delegated Contract Authority-General Counsel
Houston Metro	\$150,000	\$50,000
Trinity Metro	\$150,000	
MARTA (Atlanta)	\$200,000	
Jacksonville Transp. Authority	\$350,000	
Metro Twin Cities	\$500,000	
LA Metro	\$1,000,000	
Tri-Met Portland	\$1,000,000	
RTD (Denver)	\$2,000,000	
WMATA (DC)	Board approves budget only	

# Procurement Contract Modifications

## Distribution across hypothetical thresholds

DISTRIBUTION OF CONTRACT MODIFICATIONS TAKEN TO DART BOARD FY17 - June 2022		
MOD RANGE	COUNT	\$ AMOUNT
Mods < \$100K	9	\$511,373
Mods \$100K-\$249K	24	\$3,975,776
Mods \$250K-\$499K	14	\$5,029,211
Mods \$500K-\$999K	15	\$10,928,107
Mods \$1M+	50	\$799,115,708
<b>TOTAL:</b>	<b>112</b>	<b>\$819,560,175</b>



# Procurement Contract Modifications

## Impacts to contract Mods (#/%) taken to Board

IF BOARD THRESHOLD FOR CONTRACT MODS IS SET TO...	...then this would be the average number of Mods taken to the Board each year	Resulting in the following fewer Mods submitted to Board for approval each year	This would remain the overall direct oversight of contract Mods approval by the Board
\$50K and above*	19	0	100.00%
\$100K and above	18	1	99.92%
\$250K and above	14	5	99.44%
\$500K and above	11	8	98.82%
\$1M and above	9	10	97.49%

\* This is the current Board threshold for contract modifications (options exercised, funds added to contract, etc.)

# Option 1: No Changes

## Board Approval of New Contracts:

- Keep DART's Board approval threshold at \$250,000 (P&CEO) & \$50K for General Counsel

## Board Approval of Modifications:

- N/A if \$50,000 or less for contract modifications for contracts the Board has already approved
- Up to \$250,000 in total value if the contract did not go to the Board because it was under the Board threshold

## Pros:

- No change to the current process
- Board continues to approve the current amount of spend.

## Cons:

- Will not aid in streamlining Board meetings because the same number of items will continue to require Board approval
- Continues to add 6-8 weeks to the procurement process for all purchases over \$250,000

# Option 2: Increase to \$500,000

## Board Approval of New Contracts:

- Increase the Board threshold for new contracts to \$500,000
- Increase General Counsel threshold to \$100,000

## Board Approval of Modifications:

- N/A if \$100,000 or less for contract modifications for contracts the Board has already approved
- Up to \$500,000 if the contract did not go to the Board because it was under the Board threshold

## Pros:

- Aids in streamlining Board meetings by reducing the average number of contracts going to the Board by 14 a year
- Board oversees ~98% of the current contract spend

## Cons:

- Decreases Board oversight of contracts by ~2.8%
- If the goal is to streamline Board meetings this option will not significantly reduce the number of Board agenda items

# Option 3: Increase to \$1M

## Board Approval of New Contracts:

- Increase the Board threshold for new contracts to \$1,000,000
- Increase General Counsel threshold to \$100,000

## Board Approval of Modifications:

- N/A if \$250,000 or less for contract modifications for contracts the Board has already approved
- Up to \$1,000,000 if the contract did not go to the Board because it was under the Board threshold

## Pros:

- Reduces the average number of contracts going to the Board by 50% a year, which will aid in streamlining Board meetings
- Board oversees 94.13% of the current contract spend
- Reduces procurement timeline
- Saves administrative time/costs

## Cons:

- Board direct oversight of contract spending reduced by 5.87%

# Increase Transparency

- Procurement provides a quarterly report of all contracts awarded, modifications made, and purchase orders issued to the Board of Directors in the Quarterly Operating, Finance Performance and Compliance Reports located on the Board Portal
- To ensure Board oversight, a monthly procurement report is recommended that will include the following award information:
  - All contracts awarded
  - Vendor names
  - Vendor location
  - Dollar amount
  - M/W/DBE Status
  - Forecast of the following month's anticipated awards
- The Board can ask any forecasted item to be pulled and brought to the Board

# Recommendation:

- Option 3, increase the Board threshold to \$1M for new contracts and \$250,000 for modifications and to \$100,000 for General Counsel
  - Streamlines Board approval process while only decreasing the amount of spend approved by the Board by ~6%
  - Allows the Agency to expedite purchases and amendments and increases execution of items by 6-8 weeks
  - Saves administrative time and money
- Increase transparency
  - Monthly procurement report with forecast of upcoming opportunities



# Preferred Standard Contract Term

A standard contract term is DART's preferred base contract term with preferred number option years. DART Procurement can deviate from the standard terms based on the needs of the Agency and what is being procured, but most of DART's contracts will be procured with the standard contract term.

	Base Term	Options
Option 1	1-year	Four 1-year options
Option 2	3-years	Two 1-year options
Option 3	5-years	No options

# Standard Contract Term Option 1: 1-year with four 1-year options

## Pros:

- Allows flexibility in changing suppliers

## Cons:

- Increases administrative time in exercising options
- Creates the potential for missed renewals due to managing many 1-year contracts
- Decreases interest from suppliers that are looking for greater commitment and stability
- If the Board goal is to streamline Board meetings, this option will add a substantial number of items that require Board approval



# Standard Contract Term Option 2: 3-year with two 1-year options

## Pros:

- Provides alternative between options 1 and 3
- Provides greater commitment and larger opportunity for suppliers than option 1
- Decreases administrative burden in administering options every year

## Cons:

- Standard contract term for most government agencies at state and federal level is five years, we may lose interest from suppliers that will seek five-year contracts
- If the Board goal is to streamline Board meetings, this option will add to the number of items that require Board approval

# Standard Contract Term Option 3: 5-years with no options

## Pros:

- Matches standard term preferred by most federal and state agencies
- Provides greater commitment and opportunity for suppliers which will garner more interest
- Allows time for better supplier partnering and more monitoring and contract administration
- Contracts can be terminated for cause or for convenience at any time during the contract which maintains Agency control

## Cons:

- Will create less frequent changes in suppliers
- DART will have to exercise termination options for contractors that fail to meet expectations

# Recommendation:

- Option 3, make the preferred DART contract term five years with no options:
  - Increases supplier interest in DART contracts
  - Streamlines the Board approval process
  - Staff can provide regular reports on supplier performance as determined or requested by the Board
  - DART maintains control and leverage of the contract through its ability to terminate a contract for cause or for convenience





[DART.org](http://DART.org)