



PLAQUEMINES PORT: PROCUREMENT AND PUBLIC WORKS
Policy Category: Financial Policies
Subject: Procurement and Public Works Policy
Office Responsible for Review of this Policy: Port Executive Director and Finance
Procedures: Public Bid Law; Port’s Business Opportunity Program and Procedures; Bid Protest Procedures, Data Procurement Law
Related Port Policies: Port Federally Funded Procurement Policy

I. SCOPE.

This Procurement and Public Works Policy (“**Policy**”) applies to all Plaquemines Port Harbor & Terminal District (the “**Port**”) procurements and public works except for a declared extreme public emergency, sole source procurements, or the purchase of specialized cranes and replacement parts, as defined below.

A. Emergency and Extreme Public Emergency

In order to expedite purchases so that order may be restored, this Policy does not apply during a declared state of emergency made by the Governor of the State of Louisiana, the Parish President or the Port Executive Director with the approval of the Board of Commissioners of the Port (the “**Board**”). An emergency is a threat to public health, welfare, safety, or public property. Many types of conditions, including floods, epidemics, and equipment failures, can create an emergency. The Port’s Procurement Team may identify other emergency conditions, which are those that create an immediate need for services, materials or supplies.

The Port Executive Director, or his or her designee may make, or the Deputy Port Director or any of the Department Directors to make emergency procurements and/or public works in accordance with **LA. R.S. 38:2212(P)** when there exists an emergency condition as defined in **LA. R.S. 38:2211(5) (a)** and **(b)**.

LA R.S. 38:2212(P) provides that in cases of public emergency such emergency must be certified to by the public entity and notice of such public emergency shall, within ten days thereof, be published in the official journal of the public entity proposing or

declaring such public emergency. Every contract negotiated by a public entity under the authority of this subsection shall be supported by a written determination and findings by the public entity justifying use of the authority. When contract action under this authority is taken pursuant to telephone or other oral offers, a written confirmation of the accepted offer shall be obtained and made a part of the contract case file. In addition, whenever contract action is taken as authorized by this subsection, a record shall be established by the public entity which shall contain, at a minimum, the following information with respect to each offer: a description of the work to be performed, the name and address of each offeror quoting, and the performance time and terms of each offer. If quotations lower than the accepted quotation are received, the reasons for their rejection shall be recorded and made a part of the contract case file. Such records shall be retained for a minimum of six years following the purchase or completion of the public work.

LA. R.S. 38:2211(5) (a) and (b) provides that an “**emergency**” means an unforeseen mischance bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury or as the result of an order from any judicial body to take any immediate action which requires construction or repairs. An “**extreme public emergency**” means a catastrophic event which causes the loss of ability to obtain a quorum of the members necessary to certify the emergency prior to making the expenditure to acquire materials or supplies or to make repairs necessary for the protection of life, property, or continued function of the public entity.

The Port’s Procurement Team must document the facts and circumstances of the emergency and must follow the following steps for emergency procurements:

- *Three Quotes.* Every effort shall be made to obtain quotations from three or more vendors when supplies, services, or major repairs (except for standard equipment parts for which prices are established) are to be purchased on an emergency basis;
- *Discourage Immediate Purchases.* Immediate purchasing shall be discouraged to the extent practicable;
- *Phone Quotes.* When supplies, services, or major repairs are urgently required and time does not permit obtaining written quotations, the Procurement Team may obtain quotations by telephoning or otherwise, but those quotations shall be made on the related purchase requisitions; and
- *State Preference.* So far as practicable, quotations shall be secured from institutions of the state as provided by law.



B. Sole Source

A contract may be awarded for a required supply, service, or major repair without competition when, based on Louisiana law, the Port Executive Director or his or her designee above the level of Procurement Officer determines in writing that there is only one source for the required supply, service, or major repair items as provided in **LA. R.S. 39:1597**. Such purchases and contracts cannot be renewed without the verification from the Port Executive Director or designee. Requests must be submitted in writing with justification statement(s) and evidence to the Port Executive Director or designee for approval. Unless under emergency or extreme emergency circumstances, the Port Executive Director shall provide an update to the Board of Directors in advance of the awarding a sole source contract, along with the aforementioned justification statement(s) and evidence.

C. Specialized Cranes and Replacement Parts

Ports may purchase port-related specialized cranes and any replacement parts through a request for proposal process as outlined in **La. R.S. 38:2320.1**.

D. Other Exclusions

In addition to sole source and specialized cranes and replacement parts, the following shall not be governed by this Policy:

- a) Real Estate Purchase and Sale Transactions.
- b) Loan transactions and documents.
- c) Sub-recipient or sub-grantee agreements and related contract modifications.
- d) Employment contracts.
- e) Limited partnership agreements.
- f) Memoranda of Understanding, Cooperative Endeavor Agreements and/or Agreements with other public agencies.

E. Direct Pay

The following is a list of transactions which, by the nature of the transaction, are impractical or impossible to competitively procure (bid) due to market or other conditions. These items are exempt from this Policy, although, still require pre-approval in accordance with the procurement threshold. These transactions do not have to be justified as a non-competitive procurement but may be obtained directly by an individual staff member with the approval of the Port Executive Director, the Deputy Port Director or any of the Department Directors. Depending on the item, there may or may not be a contract or purchase order outlining the terms and conditions. If a contract or purchase order is required to outline the terms and conditions, it shall be labeled "*direct pay*."



The following reoccurring items, paid for on behalf of the Port, are authorized to be on the Direct Payment List:

- a) Utility bills (Water, Sewer, Electricity, Natural Gas, landline telephone services (excluding mobile services), cable, and other regulated utility expenses).
- b) Postage and other purchases from the U.S. Postal Service.
- c) Licenses, permits, and fees from governmental or regulatory entities at the federal, state, or local level.
- d) Purchases from other governmental entities (federal, state, city, local, port districts, state colleges and universities, state hospitals, etc.) where the governmental entity provides goods or services not available from the private sector.
- e) Service or use fees paid to governmental cooperative purchasing organizations.
- f) Specific legal services such as; arbitration fees, litigation fees, expert witness fees, court costs, and related expenses (including the cost of investigations, or related matters), when approved by the Board in consultation with legal counsel.
- g) Legal settlements of disputed matters, and judgment claims against the Port (for use only with approval by the Board in consultation with legal counsel).
- h) Renewal of existing annual proprietary maintenance or support agreements, and software license renewals for computer and telecommunication-related services.
- i) All Agency advertisements for employment opportunities, purchasing and contracting solicitations, sale of surplus items approved by the Board, public announcements and outreach, (published in all media outlets) etc. This exception does not include printing, design, or graphics services.
- j) Freight bills, express shipping, common carriers, and delivery services.
- k) Insurance deductible(s) and/or retained losses (requires approval of the Port Executive Director).
- l) Registration fees (hotel, conference, training), taxi, public transportation, and toll fares; mileage and incidental parking expenses.
- m) Publications and subscriptions (newspapers, magazines, books, pre-printed materials, reprints, publishers page charges, electronic publications, online subscription services, pre-recorded audio or video cassettes, slide presentations, tapes, CDs, diskettes when purchased from the publisher or producer; etc.).
- n) Mailing lists (print or electronic).
- o) Professional association membership dues, fees, licenses, accreditation, and certifications.
- p) Royalties, broadcast rights, and film rentals from the producer or protected distributors.

II. POLICY STATEMENT.

The Board establishes this Policy to facilitate fair and efficient solicitation, award, and procurement of public works, goods, and services in the conduct of Port business. The



Port intends that all public works and procurements, regardless of procurement method, should provide the best value for the Port and comply with all applicable law.

This Policy does not replace or supplant any statutory state or federal procurement requirements or guidelines with which the Port must comply as a political subdivision of the State of Louisiana or otherwise. However, this Policy does not require, and no person should interpret this Policy to require, the Port to comply with any non-mandatory state or federal procurement requirements or guidelines that the Port has not adopted in full through this Policy or any amendment to this Policy. The Port does not intend, and no person should interpret, any provisions in this Policy that are similar or identical to any non-mandatory statutory procurement requirements or guidelines as the Port's full adoption of those requirements or guidelines.

III. DEFINITIONS.

"Best Overall Value" means an evaluation that takes price AND qualitative criteria into consideration with predetermined evaluation weighting and criteria.

"Direct Solicitation" means a non-competitive process for lower-priced procurements that involves selecting a single vendor without soliciting and evaluating other vendors that are usually administered by the requesting department. Although direct solicitations are allowed for some procurements, the Port strongly encourages multiple vendors be contacted whenever reasonable.

"General Services" means such services as janitorial, printing, and security service.

"Goods" means Materials and Supplies.

"Invitation to Bid" or **"ITB"** means a sealed open competitive bidding process that involves multiple vendors submitting bids that are evaluated based on price and administered by the Procurement Team.

"Materials and Supplies" means movable property or equipment necessary for the Port to conduct public business, from paper and pens to computers and printers.

"Negotiation" means discussions with offerors in the competitive range regarding technical and/or price proposals when awarding a contract using the competitive proposals method of procurement or when issuing modifications to existing contracts or other required discussion with offerors for the other methods of procurement.



“**Offer**” means a response to a solicitation (IFB, RFQ or RFP) that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called “bids” or “sealed bids”. Responses to requests for proposals are offers called “proposals”. Responses to requests for quotations are called “quotations”.

“**Offeror**” is the general term for the entity that submits a response to a solicitation.

“**Procurement**” means the Port’s purchase of Public Works, Goods, and services.

“**Professional/Consulting Services**” means every type of professional service, including, but not limited to, accounting, engineering, IT, and legal services.

“**Public Works**” means public works projects, as defined in *LA. R.S. 38:2211(A)(13)*, including any contract for the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity.

“**Responsible Bidder**” means a bidder who is able to comply with the required or proposed delivery or performance schedule; has a satisfactory performance record; has a satisfactory record of integrity and business ethics; has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them; has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and is otherwise qualified and eligible to receive an award under applicable laws and regulations, including the fact that the bidder is not suspended or debarred.

“**Request for Proposal**” “**RFP**” means a sealed competitive process that involves multiple vendors submitting proposals. An evaluation committee evaluates based on best overall value. RFPs may include a Request for Qualifications (“**RFQ**”) or a Request for Information (“**RFI**”) component which requires vendors to submit proof that they meet the qualifications or other relevant information necessary to enter the proposal process. RFPs are administered by the Procurement Team.

“**Targeted Bid**” means a competitive process where certain vendors are contacted directly and requested to submit a bid. Evaluation of vendor may be based on lowest price or best overall value. Targeted bids are usually administered by the Procurement Team.

IV. POLICY.

A. GENERAL GUIDELINES.



1. **Authority.** Unless otherwise expressly provided in this Policy, the Port’s Procurement Team, under the direction of the Port’s Finance Director or his/her designee (the “**Procurement Officer**”) and with and pursuant to any approvals required in this Policy, has the sole authority to manage and process all Procurements and Public Works under this Policy. The Port Executive Director must execute all contracts on behalf of the organization after proper approval is obtained based on expenditure authority.
2. **Procurement Thresholds.** The Port’s procurement thresholds and approval authority are as follows:

Type of Procurement	Authorized Expenditures	Procurement Method	Authorized Approver
Goods (non-Public Works)	\$1 - \$9,999	Multiple quotes encouraged; Local, Small and Emerging Business Program strongly encouraged	Procurement Officer
	\$10,000 - \$29,999	At least three quotes with local, small and emerging, if available	Port Executive Director (<i>contract required</i>)
	\$30,000 - \$157,699	ITB, advertised for bid, and let for contract with the lowest responsible and responsive bidder	Port Executive Director (<i>contract required</i>) + Board of Commissioners for any Goods valued over \$50,000 (<i>contract required</i>)
Professional Services (except Design Services)	\$1 - \$49,999	At least three quotes are encouraged through a targeted bid process	Procurement Officer, if \$10,000 or less; Port Executive Director if more than \$10,000 (<i>contract required over \$10,000</i>)
	\$50,000+	RFP (RFQ or RFI may be used before RFP) highly recommended unless Port Deputy Executive Directors	Selection Committee + Board of Commissioners (<i>contract required</i>)

		(\$50,000 - \$99,999) or Port Executive Director (\$100,000 or more) approves alternative procurement process in advance. NOTE: Board must still approve issuance of solicitation and contract if more than \$50,000.	<i>NOTE: If alternative procurement is used, Board of Commissioners approval is still required before contract is executed.</i>
General Services	\$1 - \$49,999	At least three quotes are encouraged through a targeted bid process	Procurement Officer (<i>contract required over \$10,000</i>)
	\$50,000 – \$74,999	A targeted bid process of at least three vendors. Vendors are evaluated based on best overall value.	Selection Committee + Board of Commissioners (<i>contract required</i>)
	\$75,000+	RFP (RFQ or RFI may be used before RFP)	Selection Committee + Board of Commissioners (<i>contract required</i>)
Public Works \$250,000+	N/A	Lowest Responsive Bid Selected	Public Bid (<i>contract required over \$5,000</i>)

3. **Prohibited Procurement Divisions.** The Procurement Team shall not separate or divide any Procurement or Public Works into smaller portions in order to avoid, or which would have the effect of avoiding, this Policy or any applicable, mandatory law.
4. **Port’s General Counsel Approval.** The Port’s General Counsel must approve all contracts or other documents legally binding on the Port before inclusion in any solicitation, bid, or award documents. Any questions regarding what documents are “legally binding” on the Port should be directed to General Counsel.

5. **Hourly Rate Contracts and Agreements.** The Port will base Procurements for hourly rate contracts or agreements on the budgeted amount and/or what's been approved in the budget adopted by the Board, past history, and/or the applicable good faith cost estimate regarding such contract or agreement. In no circumstance will the Port's total payment responsibility under any such contract or agreement exceed the applicable category limits in which the estimated amount falls within this Policy.
6. **Combination of Goods and Services.** The Port will address and process Procurements involving a combination of Goods and services under this Policy based on whether the predominant or substantial components are the Goods or services, as the Procurement Team determines.
7. **Contract Duration Limitations.** Contract or agreement durations shall not exceed two years with two one-year options, which options are solely at the Port's discretion. All contracts and agreements should also allow for termination for convenience and non-appropriation and non-circumvent clauses, as approved by the Board's counsel. For purpose of this limitation, a "**year**" is 365 days from the full execution of a contract or agreement.
8. **Discussions with Bidders.** Other than as expressly authorized by the Procurement Officer, Port employees cannot discuss any Procurement or Public Works with any potential bidder during the solicitation process.
9. **Evaluation Committees and Criteria.** The Deputy Port Director shall approve evaluation committee members, evaluation criteria, and grading methods. When evaluation criteria is stated in an RFP, no other criteria may be used to evaluate the proposals.
10. **Review of Evaluation Scoring.** Before any award, the Procurement Officer must review all scoring by any Evaluation Committee.
11. **Approval of Non-Budgeted Solicitations/Advertisements.** If funds are not specifically budgeted, the Port Executive Director shall seek and receive Board approval before moving forward with all non-budgeted Procurements and Public Works prior to solicitation or advertisement.
12. **Project Manager Responsibility.** User departments are responsible to obtain the needed Public Works, Goods, or services. They initiate the process, prepare scope, determine appropriate licenses, and prepare or obtain specifications, estimate project cost, obtain all necessary approvals, coordinate the solicitation with the Procurement Team, budget and fund the project in coordination with the Finance/Accounting Department, conduct RFQ/RFP/bid conferences,



approve solicitation amendments, facilitate execution of a contract, approve commencement, oversee the work, obtain needed change orders or amendments, manage the contract, and approve payments and completion.

13. **Insurance.** It is the user department's responsibility to discuss the specifics of each Procurement and Public Work with the Port's risk manager. The risk manager will then determine the specific insurance requirements for that Procurement or Public Work. The Project Manager ensures the successful party provides all insurance certificates to the Port and obtains the risk manager's certification that insurance provided meets the requirements specified.
14. **Advertising.** The Procurement Team is responsible for all advertising requirements. The Public Bid Law requires advertising in a local newspaper of solicitations for certain Public Works and Goods Procurements. The Procurement Team determines if advertising is required for other Procurements. The Procurement Team may distribute or invite attention to published solicitations by email, telephone, or other notice.
 - a) In addition to advertisement in a local newspaper when required, advertisements must appear in the Port's official journal. Additionally, the Port shall publish advertisements on its website.
 - b) Advertisements for Public Works must be published once a week, for three different weeks, with the first ad appearing at least 25 days before the date of the bid opening. Advertising for purchases of Goods must be published at least twice, beginning at least 15 days before bids are to be received.
 - c) The first publication of an advertisement may not occur on a Saturday, Sunday, or legal holiday.
 - d) Bid documents must be available to bidders on the day of the first advertisement and must be available until twenty-four hours before the bid opening date.
15. **Records.** The Procurement Team will maintain all Procurement and Public Works files and forward to the Director of Administration according to the retention schedule.
16. **Reporting.** The user department will report selections, disqualifications, and cancellations of solicitations to the Procurement Team who will notify selected and disqualified bidders and report solicitation cancellations to bidders. The Procurement Team will document solicitation cancellations.
17. **Contracts/Written Agreements/Purchase Orders.**



a) Procurement Threshold Requiring a Contract or Written Agreement

- Public Works more than \$5,000
- Goods and services more than \$10,000

b) Review and Approval

- All contracts and written agreements will be approved by the General Counsel, as to form and legality.

c) Contract Monitoring and Accountability

- User department have ultimate responsibility for ensuring compliance with contracts/written agreements, however, the Procurement Team will monitor the progress and may report such progress to selection committees.
- During the progress of the work under a contract awarded by the Board, the Port Executive Director or authorized designee is authorized to negotiate and execute any change order the amount of which is included in the authorized project budget and the Port's overall budget of Port for that year. All other change orders shall be presented to the Board for consideration.
- Any consultant/contractor that assists the Port to determine the requirements for a solicitation shall be prohibited from proposing or bidding on the same solicitation.

d) Approval Process

- The Board shall approve all competitively sourced procurements (Public Bid law, RFP, RFQ, RFI, etc.) in accordance with this Policy.
- For procurements that do not meet the requirements of this Policy to be competitively sourced (Public Bid law, RFP, RFQ, RFI, etc.), each month a written summary shall be provided to the Board reporting those contracts so executed by the Executive Director or authorized designee for the prior month.

B. PORT EXECUTIVE DIRECTOR'S RESPONSIBILITIES.

The following is a non-exclusive list of the Port Executive Director's responsibilities under this Policy:

- a) Use sound judgment in accomplishing the procurement activities of the Port.



- b) Ensure that all procurement activities of the Port are consistent and in the best interests of the Port and applicable laws and regulations.
- c) Assign a contract monitor via written delegation of the Port Executive Director for each contract to ensure adequate contract monitoring, oversight, and administration.
- d) Authorize all purchases in accordance with all applicable procurement authority limits.
- e) Ensure funding is available for purchases prior to authorized purchase approval.
- f) Review and ensure that all purchases of \$150,000 or greater are approved by the Board.
- g) Approve and implement appropriate procurement procedures consistent with this Policy.

C. PROCUREMENT OFFICER RESPONSIBILITIES.

The following is a non-exclusive list of the Procurement Officer's responsibilities under this Policy.

- a) Develop procedures, checklists, and forms compliant with this Policy and any mandatory applicable law, including without limitation, a process for the Port's issuance of RFPs, including any RFPs that might include an RFQ component.
- b) Monitor spending and ensure all departments comply with this Policy and any applicable mandatory law.
- c) Develop and maintain a vendor list to assist the Port in obtaining multiple bids/quotes.
- d) Maintain a Business Opportunity Program to create and ensure adequate opportunities for local and Small Business Enterprise/Disadvantage Business Enterprise (SBE/DBE) firms and to monitor SBE/DBE spending.
- e) Provide user departments with direction and advice on this Policy.



- f) Monitor and report to the Port Executive Director and Deputy Port Director any new or legislative changes to applicable statutory requirements and guidelines for the Port's Public Works or Procurements.
- g) Recommend to the Port Executive Director and Deputy Port Director updates to this Policy and its attachments as needed due to changes in applicable law or due to circumstances that warrant such recommended updates.

In consultation with the Port's General Counsel, create additional procedures to adhere to new Public Works or Procurement requirements or guidelines or those that the Port infrequently uses.

D. PUBLIC WORKS PROCUREMENTS POLICY GUIDELINES.

1. All contracts for Public Works exceeding the State mandated Public Works threshold ("**PW Threshold**"), currently (2021) \$250,000, shall be procured through an ITB, advertised for bid, and let for contract with the lowest responsible and responsive bidder, in accordance with the Public Bid Law. The Procurement Team will evaluate bid responses to the ITB based and make a recommendation to the Board for final approval of selected lowest bidder. For a link to the current Public Bid Law see **Attachment A**.
 - a. Bid bond - equal to 5% of the bid are required
 - b. Performance bond - Although the law only requires a contractor to furnish a performance bond equal to 50% of the contract value for the faithful performance of its duties, the Port generally requires 100% from its contractors.
2. Procurements of Public Works less than the PW Threshold may be procured through direct solicitation, through the use of force account labor, or via a targeted bid in consultation with the Procurement Team.

E. FEDERALLY FUNDED PROCUREMENTS POLICY GUIDELINES.

All Procurements partially or fully funded with federal funds shall be processed and managed according to **Attachment B**, Port Federally Funded Procurement Policy.

F. GOODS PROCUREMENTS POLICY GUIDELINES.

1. The Port will procure single purchases of Goods of \$30,000 or more and recurring purchases of Goods that have a total value of more than \$30,000



within a fiscal year through an ITB, advertised for bid, and let for contract with the lowest responsible and responsive bidder, in accordance with the Public Bid Law. **Attachment A** contains a link to the current Public Bid Law.

- a. Bid bond - equal to 5% of the bid may be required
2. The Port will procure single purchases of Goods of \$10,000 or more but less than \$30,000 and recurring purchases of Goods that have a total value of \$10,000 or more but less than \$30,000 within a fiscal year through a targeted bid process by obtaining not less than three quotes, in accordance with the Public Bid Law. If three quotes are not available or if three responses are not received, the attempt to obtain three quotes and the results of such shall be documented. Preference is strongly encouraged for available small, emerging and local vendors subject to the Port's Small and Emerging Business Opportunity Program.
3. The Port may procure purchases of Goods below \$10,000 through direct solicitation, however, when reasonable, solicitation of multiple quotes is encouraged so the Port can select the lowest priced vendor. Preference is strongly encouraged for available small, emerging and local vendors subject to the Port's Small and Emerging Business Opportunity Program.

G. "PIGGYBACK" GOODS PROCUREMENTS POLICY GUIDELINES.

As an alternative for purchases of Goods of \$10,000 or more, political subdivisions of the state may "**piggyback**" 1) onto a contract competitively bid by another local political subdivision, or 2) on a statewide cooperative contract adopted by the Louisiana Department of Administration ("**DOA**") and made available to local public procurement units. In addition, the Port may partner with other governmental entities to cooperatively procure Goods and services that both entities require, in accordance with Louisiana law.

H. SERVICES (PROFESSIONAL/CONSULTING OR GENERAL) PROCUREMENTS POLICY GUIDELINES.

The Port's evaluation and vendor selection process shall be predicated on the best overall value, rather than strictly upon award to the lowest priced responsive and responsible vendor.

I. PROFESSIONAL/CONSULTING SERVICES.

1. An RFP process is strongly encouraged for recurring professional/consulting services totaling over \$50,000 within a fiscal year. A selection committee will



evaluate responses to RFP based on best overall value in accordance with the criteria established in the RFP. The selection committee will make a recommendation to the Board for approval of selected vendor.

- a. Selection committee interviews are recommended for highly technical services or when the services are managing large projects as determined by the Department Director.
2. For recurring professional/consulting services totaling \$50,000 or less within a fiscal year, at least three quotes are encouraged through a targeted bid process. Vendors are evaluated based on best overall value.
3. When the value is more than \$50,000 and a competitive process is not used, prior written approval of the alternative procurement method is required from the Deputy Port Director; the Port Executive Director's prior written approval of the alternative procurement method is required if the value is more than \$100,000. In all cases where a professional/consulting services contract exceeds \$50,000, the Board shall consider and approve the contract prior to execution. If the Deputy Port Director or Executive Director approve any contracts less than \$50,000, a written summary shall be provided to the Board reporting those contracts so executed by the Executive Director or authorized designee for the prior month and the reason a competitive process was not used.
4. **Design Services Exception.** Selection of providers of design services is made on the basis of competence and qualifications for a fair and reasonable price. Price or price-related information may not be a factor in the selection process (*LA. R.S. 38:2318.1*).

J. GENERAL SERVICES.

1. Recurring general services totaling over \$75,000 within a fiscal year shall be procured through an RFP process. A selection committee will evaluate responses to RFP based on best overall value in accordance with the criteria established in the RFP. The selection committee will make a recommendation to the Board of Commissioners for approval of selected vendor.
2. Recurring general services totaling \$10,000 to \$75,000 within a fiscal year shall be procured through a targeted bid process of at least three vendors. Vendors are evaluated based on best overall value.
3. Recurring general services totaling less than \$10,000 within a fiscal year may be procured through direct solicitation, however, when reasonable, multiple quotes are encouraged. Vendors are evaluated based on best overall value.



4. **“Piggyback”** or intergovernmental purchasing, as described above, may be used for general services.

K. DATA PROCESSING, SOFTWARE, AND TELECOMMUNICATIONS PROCUREMENTS POLICY GUIDELINES.

Pursuant to *LA. R.S. 38:2234, et seq.*, known as the Political Subdivisions Telecommunications and Data Processing Procurement Law (“Data Procurement Law”), political subdivisions may lease, rent, or purchase telecommunications or data processing systems, including equipment, and related services (“IT Items”), which include software as a service (“SaaS”) or cloud computing, through an RFP.

Single purchases of IT Items totaling over \$30,000 and recurring purchases of IT Items totaling over \$30,000 in a twelve-month period may be procured through an RFP Process in accordance with the Data Procurement Law rather than through an ITB. Attachment C contains a link to the current Data Procurement Law.

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L. LEASED PROCUREMENTS.

Leases which include a purchase option, are for the entire useful life of the item leased, provide for the transfer of ownership at the end of the lease, or otherwise are a sale disguised as a lease shall follow the Public Bid Law. All other leases may be procured by any method provided evaluation is based on best overall value.

M. BID PROTEST.

See **Attachment D.**

N. QUESTIONS.

Questions regarding this Policy should be addressed to the Director of Procurement.

O. VIOLATIONS.

The consequences of any violation of this Policy will be determined at the time of any such violation and be commensurate with the violation and may include up to termination of employment.

P. REFERENCES.

- Louisiana Public Bid Law, La. R.S. 38:2211, et seq.
- No Bidding of Design Professional Services, La R.S. 38:2318.1
- Political Subdivisions Telecommunications and Data Processing Procurement Law, La R.S. 38:2234, et seq.

Q. ATTACHMENTS.

- Attachment A - Public Bid Law
- Attachment B - Port Federally Funded Procurement Policy
- Attachment C - Data Procurement Law
- Attachment D - Bid Protest Procedures



R. EFFECTIVE DATE(S).

This Policy was effective June 10, 2021.

V. REVIEW SCHEDULE.

This Policy shall be reviewed and updated, as necessary, every two years following the effective date.

VI. SIGNATURE, TITLE AND DATE OF APPROVAL

This policy needs to be signed by the appropriate officer (listed below) before it is considered approved.

Approved:

NAME:

TITLE:

Date Approved: _____



**Attachment A
Public Bid Law**

To review the Louisiana Public Bid Law, La. R.S. 38:2211, et seq. go to the following link:

<http://www.legis.la.gov/Legis/Law.aspx?p=y&d=94915>

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Attachment B

PORT FEDERALLY FUNDED PROCUREMENT POLICY

This Federally Funded Procurement Policy will be used to procure public works, goods, and services for projects using federal funds, unless the grant and/or agreement guidelines require different procedures.

The Port will comply with Title 2 of the Federal Regulations Code (2 CFR 200.318 General procurement standards 2 CFR 200.326 Contract Provisions) for the use of federal funds. The following specifically relates to the procurement using federal funds according to CFR 2, but employees expending federal funds under any grant or otherwise are responsible for knowing which laws and regulations apply and abiding by all applicable laws and regulations.

1. The responsible department shall provide the Procurement and Finance Departments with copies of the awarded grant or contract.

- The Procurement Department will review procurement procedures to be followed.
- The Finance Department will determine if there is a need for, and if so, set up a specific work order.
- Purchase requests shall denote if the purchase is being made with Federal Funds.
- Anyone engaged in the selection, award, and administration of federal contracts or grants must annually take the Louisiana State Ethics Training. Proof of annual attendance shall be maintained in the Employee's Human Resources Record.

2. Federal Purchase Limits

- Micro-Purchases are purchases for supplies, materials, and equipment under \$3,500, services under \$2,500, or construction under \$2,000, and do not need to be competitively bid.
- Small Purchases are purchases under \$150,000 that are for services, materials, supplies, equipment, construction, or other property. Small Purchases must follow the Port's Procurement Policy. At a minimum, quotations must be obtained from an adequate number of qualified sources.
- Architecture and Engineering (A&E) services can be sourced using a Request for Qualification/Request for Proposal where cost is not a factor, but price must be part of negotiations.
- Purchases above \$150,000 require formal advertisement for bids, two or more bids are required, and a cost/price analysis shall be performed.
- Cost-plus contracts are not allowed.
- CO-OP purchases, bulk purchases, purchasing from state contracts, and piggybacking are encouraged.
- ONLY responsible contractors shall receive an award. The procurement file shall document the contractors integrity, past performance, non-debarment (available at www.sam.gov), and financial stability, which are part of the determination. The

procurement file shall document that diverse suppliers were contacted to provide quotes or bids.

- The acquisition of unnecessary or duplicative items shall be avoided, per 2CFR 200.318(d).
- Written justification must be provided prior to the initiation of any procurement process.
- Consideration must be given to consolidating or breaking out procurements to obtain a more economical purchase.
- Where appropriate, an analysis must be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

3. The Port shall maintain sufficient contract records per 2 CFR 200.318(i) including but not limited to:

- Rationale for determining the need for project.
- Rationale for the method of procurement selected, *i.e.* micro purchases, small purchase procedures, and sealed bids.
- Selection of contract type.
- Contractor selection or rejection.
- Basis for the contract price.
- For time and materials (T + M) contracts, which generally are prohibited, sufficient records shall be maintained to detail the history of procurement per 2 CFR 200.318(j).

4. The Port shall award contracts to responsible contractors, and per 2 CFR 200.319:

- Contracts must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered restrictive of competition include but are not limited to:
 - Placing unreasonable requirements on firms in order for them to qualify to do business;
 - Requiring unnecessary experience and excessive bonding;
 - Noncompetitive pricing practices between firms or between affiliated companies;
 - Ethical violations or organizational conflicts of interest; and

- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement.
- There must be a clear and accurate description of all technical requirements for the material, product, or service to be procured.
- The contractor must be in good standing with the Secretary of State and vetted through both State and Federal databases to ensure the contractor is not debarred or suspended. These databases are: www.sam.gov and www.sos.la.gov/Pages/default.aspx
- All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - Placing unreasonable requirements on firms in order for them to qualify to do business;
 - Requiring unnecessary experience and excessive bonding;
 - Noncompetitive pricing practices between firms or between affiliated companies; Noncompetitive contracts to consultants that are on retainer contracts;
 - Organizational conflicts of interest;
 - Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - Any arbitrary action in the procurement process.
- The Agency must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- The Agency must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict

competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

5. Regarding utilizing small businesses, minority-owned firms, and women business enterprises, per 2 CFR 200.321:

- Any RFPs and RFQs issued shall be sent to the following organizations:
 - Louisiana Uniform Certification Program
 - State and Local Disadvantaged Business Program
- To engage small and minority-owned firms and women business enterprises in contracts, the Port will do the following:
 - Place qualified small and minority businesses and women’s business enterprises on solicitation lists.
 - Assure that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources.
 - Divide total contract requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women business enterprises.
 - Establish delivery schedules, where the requirements permit, which encourage participation by small and minority businesses, and women’s business enterprises.
 - Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
 - Require the prime contractor, to solicit as subcontractors, small and minority owned firms and women business enterprises by taking the same steps stated above.

6. Regarding the procurement of recovered materials, per 2 CFR 200.322:

- Recovered materials must be procured to the maximum extent practicable.

- Procure only items designated within guidelines of the Environmental Protection Agency (EPA) in 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000. The designated items are:
 1. Paper and paper products
 2. Vehicular products
 3. Construction products
 4. Transportation products
 5. Park and recreation products
 6. Landscaping products
 7. Non-paper office products
 8. Miscellaneous products
- Procure solid waste management services in a manner that maximizes energy and resource recovery.
- Establish an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

7. Contract cost and price, per 2 CFR 200.323

- Procurement must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- Procurement must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E -

Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

- The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

8. Federal awarding agency or pass-through entity review, per 2 CFR 200.324

- The Agency must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- The Agency must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - procurement procedures or operation fails to comply with the procurement standards in this part;
 - procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
 - the proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or a proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- The Agency is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
- The Agency may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur

where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

- The Agency may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

9. Bonding requirements, per 2 CFR 200.325

- For construction or facility improvement contracts or sub contracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the Agency provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
 - A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

10. Regarding the procurement contract provisions, per 2 CFR 200.326:

- Contracts must contain the applicable provisions described in Appendix II to Part 200 (-2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)
- Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian

Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the

compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387),** as amended - Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) 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 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- See § 200.322 Procurement of recovered materials.

11. Termination of Contract

- A contract may be terminated in two ways:
 - Termination for Cause: implies a breach of contract by the contractor.
 - Termination for Convenience: the Port has the right to terminate the contract for any reason.
- In each case, the Port shall notify the contractor in writing of the following:
 - Reason for termination;
 - Effective date of termination; and
 - Order to stop work immediately.

12. Administrative Documentation and File Management - Furnish essential facts (include a description) used as a basis for informed decisions at each step in the process:

- Furnish a complete audit trail that may be used to support reviews and future investigations, litigation, or inquiries.
- The following records shall be maintained in contract files, if applicable: purchase requests (PRs), acquisition planning information, and other pre-solicitation documents.

- Document the rationale for actions taken, for example, deciding an agreed upon price was fair and reasonable.

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Attachment C
Data Procurement Law

To review the Political Subdivisions Telecommunications and Data Processing Procurement Law, La R.S. 38:2234, et seq. go to the following link:

<http://www.legis.la.gov/Legis/Law.aspx?d=94948>

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Attachment D
Bid Protest Procedures

I. Form of Protest.

In order to be considered, a Protest shall be in writing, addressed to Purchasing, and include:

- A. The name, address, and phone number of the Bidder protesting, or the authorized representative of the Bidder;
- B. The solicitation number and title under which the Protest is submitted;
- C. A detailed description of the specific grounds for protest and any supporting documentation. It is the responsibility of the Protesting Bidder to supplement its Protest with any subsequently discovered documents prior to the procurement coordinator's decision;
- D. The specific ruling or relief requested;
- E. Evidence that all persons with a financial interest in the procurement have been given notice of the Protest or if such persons are unknown, a statement to that effect; and
- F. Contain the following statement signed by a responsible party of the Protester, "I declare under penalty of law for perjury or falsification that the information contained in the Protest is true and correct to my personal knowledge, that this Protest is filed in good faith and without any intent of delaying the procurement, and that I reasonably believe the Protest to be meritorious." Such statement shall be subscribed and sworn before a notary public. A Protestor must strictly comply with this requirement.

II. Delivery Method.

A. Delivery of Protests shall be made during regular Port business hours in a manner requiring a receipt signed by a staff member of the Port of Longview's office such as United States Postal Service certified first class mail, return receipt request or commercial document courier who obtains a receipt upon delivery. Electronic submission of Protests will not be considered.

III. Who May Protest.

- A. Protests based on specifications: Any actual or prospective Bidder.
- B. Protests following Proposal or Bid submittal: Any actual Bidder.
- C. Bidder does not include subcontractors, suppliers or any person contracting with, or intending to contract with an actual Bidder.

IV. Time to Protest.

A. Protests based on specifications or other terms in the solicitation documents which are apparent on the face of said document must be received by the Port no later than five calendar days prior to the date established for submittal of Proposals or Bids.

B. Protests based on other circumstances must be received by the Port within two calendar days after the protesting Bidder knows or should have known of the facts and circumstances upon which the Protest is based.

C. In no event shall a Protest be considered if all Proposals or Bids are rejected or after award of the Contract.

V. Calculation of Time.

A. Time is computed based on working business days, not including weekends or holidays.

VI. Determination of Protest.

A. If the procurement is to be made or awarded by the Port Board, the Port Board shall decide the Protest. The Port Board's decision shall be final and binding.

B. If the procurement is to be made or awarded without the need for Port Board action (in accordance with Port's Procurement and Public Works Policy), the Port Executive Director or his/her designee shall decide the protest. A meeting or conference with the Protestor will occur only if such designated person determines, in his or her sole discretion, that a meeting or conference with the Protestor would materially assist them in making a decision. The Port Executive Director or his/her designee will issue a written decision. The decision shall be final and binding.

VII. Remedies.

A. A decision on the Protest may include, but is not limited to, upholding or denying, in whole or in part. Remedies may include rejection of one or more Proposals or Bids, a call for new Proposals or Bids, acceptance of the Proposals or Bids in the event the Protest is denied, and such other relief as may be appropriate. No Protestor shall be entitled to damages of any kind whatsoever.

VIII. Strict Compliance.

A. Strict compliance with these Protest Procedures is essential in the furtherance of public interest. Any party that fails to comply strictly with these Protest Procedures is deemed to have waived any claim with respect to alleged irregularities in connection with the solicitation or award of a contract.

Failure to comply with the procedures set forth herein may render a Protest untimely or inadequate and may result in rejection by the Port. No person may pursue any judicial or administrative proceedings challenging the solicitation or contract award without first exhausting the procedures specified herein.