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SECTION 1: PURCHASING POLICY

1.1 Purpose

For the Port Authority to function effectively and efficiently, it is necessary that commodities and contractual services that conform to suitable standards and are available in sufficient quantities be purchased at the best prices available, consistent with established standards of service and quality. When purchasing commodities and contractual services, the Port Authority will follow sound and prudent business practices, and will also seek to promote the full and equitable economic participation of all segments of the community. It is the purpose of the Purchasing Office to provide for the fair and equitable treatment of all persons involved in public purchasing at the Port Authority, to maximize the purchasing value in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

1.2 Implementation

The Executive Director or authorized designee, through the Purchasing Office, will be responsible for the distribution and implementation of the following policies to Port Authority Directors and all Port Authority staff. No purchase shall be made that circumvents the procedures established in this Manual. Any purchase made by a department without Purchasing's knowledge or approval shall be considered an unauthorized purchase, unless otherwise exempted in this Manual. Unless a specific waiver provision applies, only the Board of Port Commissioners shall have the authority, and then only in specific cases, to waive or override the policies in this Manual.

1.3 Mission Statement

The Purchasing Office's mission is to serve, in a customer-focused environment, its operating departments and vendors by procuring goods and services in conformance with established specifications and quality requirements at the lowest reasonable cost. The goods and services are to be procured in a timely and efficient manner taking advantage of the latest technologies afforded to the procurement profession. In all procurements the Authority will use its best efforts to ensure that disadvantaged business enterprises have an equitable opportunity to participate in the procurement process. Procurement processes shall be highly ethical, consistently applied, professional and in compliance with applicable codes and statutes. Operational procedures shall be maintained in the Purchasing Office and kept up to date by the Purchasing Manager subject to approval by the Executive Director and based on best practices consistent with legal requirements.
SECTION 2: DEFINITIONS

2.1 Definitions

The following words, terms and phrases, when used in this Manual, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Addendum** - an addition or change in the specifications after an invitation has been mailed for written quotations or an advertisement has been published requesting a formal, advertised sealed bid, sealed proposal or letter of qualifications.

**Best Interest of the Port Authority** - a judgmental assessment of what will result in a maximum benefit being conferred upon the Port Authority.

**Bid Guaranty** - a written agreement, letter of credit, bid bond or check made payable to the Port Authority, by which a third-party guarantees that a bidder will accept and execute a contract as bid, if it is awarded.

**Bid Protest** - any formal written complaint about an action or decision of the Lee County Port Authority from a potential bidder with the intention of receiving a remedial result.

**Bid Waiver** - a request and/or approval to purchase goods or services through methods other than the standard competitive procedures.

**Board** - the Board of Port Commissioners of the Lee County Port Authority.

**Board Level Authorization** - purchases exceeding $100,000.00, either for the fiscal year or cumulatively for the term of the contract, unless otherwise exempted in this Manual.

**Brand Name or Equal Specification** - specification limited to one (1) or more items by manufacturers’ names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the Authority’s requirements and providing for the submission of equivalent products.

**Centralized Purchasing** - the point at which all purchases for an agency are made by a department enabling quantity purchasing and the standardization of frequently used items.

**Change Orders (to a Purchase Order)** - document required if an invoice is over twenty percent (20%) higher (up to a maximum of $1,000.00) than the Purchase Order amount.

**Commodities** - various supplies, materials, goods, merchandise, food, equipment, and other personal property purchased, leased or otherwise contracted for by the Authority.

**Competitive Negotiations** - negotiations for certain professional services needed by a Port Authority department with qualifications and experience, not cost, being the primary selection factor.

**Contract** - a formal, written agreement between the Board of Port Commissioners and a selected vendor for a particular commodity or service.
Educational Expense - a sum of money ranging from a seminar fee to tuition assistance which the Port Authority will pay to facilitate an employee's education when the expense meets certain criteria as determined by Human Resources.

Emergency Purchase - an unforeseen situation in which there is a breakdown or restriction of Port Authority service and an urgent or immediate need to restore such service, in order to avoid serious and adverse consequences affecting the life, health, welfare, or property of, or effective service delivery to, the citizens of Lee County and airport users or the safe and efficient operation of the Airports.

Encumbrance - a commitment related to an unperformed contract for goods or services. An encumbrance is a budgetary control used by the Finance Department to assist in monitoring the budget and facilitating cash management. An encumbrance is not an actual expenditure nor is it a liability. An encumbrance represents funds reserved for an approved purchase order for the procurement of goods and services.

Executive Director Level Authorization - purchases less than or equal to $100,000, either for the fiscal year or cumulative for the term of the contract, unless otherwise exempted in this Manual.

Exempt Purchase - the purchase of goods or services meeting guidelines that allow them to be purchased under special procedures or a bid waiver.

Informal Hearing - a meeting called, attended and presided over by the members of the Bid Dispute Committee to hear a bid protest.

Letters of Interest (LOI) - letters received in response to a Request for Letters of Interest, a non-competitive method of solicitation whereby all vendors are invited to submit a summary of their qualifications, interest and particulars in performing a specific job or service.

Letters of Qualifications (LOQ) - letters received in response to a Request for Letters of Qualifications, a competitive method of solicitation used to solicit requests for Professional Services.

Lost or Abandoned Property - means all tangible personal property which does not have an identifiable owner that has been mislaid or disposed on airport property.

Minor Purchases - acquisition of goods or services costing less than three hundred dollars ($300.00) such as recording fees, documentary stamps, summons, subpoenas and witness fees, tag and title fees or sales taxes incurred in a petty cash purchase.

Miscellaneous Obligations - certain transactions that are unique in nature, and therefore, cannot be handled through competitive bidding and negotiations. Pre-purchases will be considered a Miscellaneous Obligation.

Operational Procedures - day to day processes that are established by the Purchasing Office which departments shall adhere to unless otherwise exempt.

Other Professional Services - professional services not covered under Florida Statutes Chapter 287.055 as amended, but requiring specialized education, skill, licensing or certification including, but not limited to construction management, planning, environmental services, real estate appraisal services (not used in litigation), financial services, legal services or other services of a professional or technical nature, which may be required to accomplish the program or policy objectives of the Port Authority.
Organizational Membership - an approved involvement in various professional groups paid from Port Authority funds.

Performance Guaranty - a contract of guarantee, executed subsequent to contract award by a successful bidder to protect the Port Authority from loss due to the vendor’s inability or unwillingness to perform the contract as agreed.

Pre-LOQ, Pre-Proposal or Pre-Bid Conference - a meeting of all interested parties prior to the submittal date of the written quotations/advertised sealed bids, sealed proposals, or Letters of Qualifications at which all project requirements and any questions or abnormalities concerning the project are discussed.

Pre-purchase - any goods or services delivered or received without Purchasing’s approval and prior to the issuance of a Purchase Order.

Price Estimate - a price given by a vendor for an item or service meeting specifications provided to them. This is not necessarily a firm quote.

Purchasing Manager - the individual duly authorized to enter into contracts and make written determinations with respect thereto. The term also includes an authorized designee acting within the limits of authority as established by the Purchasing Manager.

Professional Services - as defined by Florida Statutes Chapter 287.055, as amended, referring to those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

Purchase - acquisition of goods or services, not including payment.

Purchase Order (PO) - the actual document ordering goods or services. The point at which funds are encumbered on the Authority’s financial records. An official purchase of a good or service.

Request for Bids (RFB) - a competitive method used to solicit sealed bids for purchases whose costs are estimated to be Board Level Authorization or higher.

Request for Proposals (RFP) - a competitive purchasing method established around general guidelines or a description of need for a service rather than a firm specification written in detail and used when no fixed criteria exists.

Request for Quotations (RFQ) - an informal competitive method used for the purchase of goods, services, or capital construction whose cost is from one cent ($.01) through Board Level Authorization, unless otherwise exempted in this Manual.

Request for Requisition (RPO) - a request to purchase goods or services, not an authorization to purchase.

Responsible Bidder or Proposer - a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance of the contract.

Responsive Bidder or Proposer - a person who has submitted a bid or proposal conforming in all material respects to the requirements of the invitation or request.
**Sole Source Vendor** - a vendor providing a product or service that is not obtainable from any other source because:

- The vendor is the sole provider of the product or service, or is the designated provider/vendor as determined by the originating manufacturer/provider;
- Use of a specific product or service is required to preserve the Port Authority's pre-existing warranty or contractual rights; or
- The product is proprietary and a trade secret under Section 812.081, Florida Statutes, or as amended, renumbered, or replaced, and is required to maintain compatibility with existing or proposed Port Authority equipment, facilities, systems, services or software.

**Specifications** - minimum guidelines or limitations required for goods or services to be purchased.

**Surplus Property** - consists of surplus, obsolete, or scrap supplies. "Surplus supplies" means supplies which are capable of being used but are in excess of the normal operating requirements of the Port Authority. "Obsolete supplies" means those which may no longer be used for their intended purpose because their use has become economically impractical. "Scrap supplies" are those that can no longer be used either safely or economically for any purpose except for their possible salvage value.

**Tabulation** - a complete list of all sealed bids/sealed proposals/sealed Letters of Qualifications received for a project.

**Travel Advance** - a sum of money paid to a Port Authority employee in anticipation of their estimated travel expenses incurred during his or her travel.
SECTION 3: CENTRAL PURCHASING OFFICE

3.1 Central Purchasing Office; Purchasing Manager

A. Establishment. The Executive Director shall establish a centralized Purchasing Office to perform the Port Authority’s purchasing functions and to carry out the provisions thereof. This organizational unit will be headed by a Purchasing Manager.

B. Authority; Duties. Authority and duties of the Purchasing Manager include, but are not limited to, actions necessary to enforce day to day operational procedures of the Purchasing Office, as well as the following:

1. To purchase or supervise the purchasing of all goods and services needed by the Airports.
2. To adopt operational procedures covering the internal function of the Purchasing Office and delegate rights, powers, and authority vested in him/her to subordinate purchasing agents and other employees.
3. To establish procedures for obtaining fair and competitive offers from sources of supply for those purchases within established guidelines.
4. To establish procedures and supervise the transfer, disposal or sale of surplus and lost abandoned property in accordance with the laws of Florida, subject to approval of the Executive Director.
5. To execute all contracts and amendments up to Board Level Authorization. The total amount of an amendment or amendments to a contract executed under this paragraph shall not exceed Board Level Authorization.
6. Exercise the discretion to reject any and all competitive responses to a procurement solicitation after any vendor offer is opened, including those solicitations in which there is only one (1) responsive vendor.
7. Exercise the discretion to determine whether quotations may not be necessary or beneficial to a particular procurement.
8. To have the authority to declare vendors or supplier who default on their quotations or contracts as irresponsible vendors or suppliers and to disqualify them from receiving any business from the Authority for a stated period of time, subject to approval of the Executive Director.
9. Administer the use of Purchasing Cards.

C. Duties of Port Authority Attorney. The Port Authority Attorney or his or her authorized designee shall serve as legal counsel and provide legal services to the Purchasing Manager as requested.
SECTION 4: GENERAL PROVISIONS

A. Unauthorized Purchases

Except as provided in this Manual, it shall be unlawful for any Port Authority employee to order the purchase of any materials or supplies or make any contract for materials, supplies or services other than through the Purchasing Office, and the Authority shall not be bound by any purchase order or contract made contrary to the provisions of this Manual.

B. Encumbrance of Funds

1. Requisition. Except in cases of emergency, no requisition (RPO) for any order shall be made if there are insufficient unencumbered funds in the appropriate account to be charged.

2. Purchase orders. Purchasing shall not, except in cases of emergency, issue any purchase order if it has been determined by the Port Authority’s Finance Department that there is insufficient unencumbered funds in the appropriate account to be charged.

C. Conflict of Interest

1. Purchases. Any purchase order or contract within the purview of the Purchasing Office in which any officer or employee of the Authority is financially interested, directly or indirectly, shall be void.

2. Gifts. No officer or employee of the Authority or his/her family member shall, at any time, accept any compensation, payment, or thing of value when such officer or employee knows or, with the exercise of reasonable care, should know that it was given to influence a vote or other action in which the officer or employee was expected to participate in his official capacity.

D. Lobbying Restrictions

To maintain integrity and place trust in the public procurement process, the Lee County Port Authority places lobbying restrictions on potential vendors during active solicitations. All firms are placed on notice that the Lee County Port Authority Board of Port Commissioners, Members of the Airports Special Management Committee and all Authority employees (with the exception of the Purchasing Office personnel designated to receive questions, requests for interpretations or corrections) are not to be lobbied, either individually or collectively, regarding any active solicitation. During the entire procurement process, all firms and their subcontractors, subconsultants, or agents are placed on notice that they are not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit or have submitted solicitations for a potential project. All firms and their subcontractors, subconsultants, and any agents must submit individual affidavits with their submissions stating that they have not engaged in lobbying activities or prohibited contacts in order to be considered for an active solicitation.

Any firm contacting individuals mentioned herein in violation of this warning shall be automatically disqualified from further consideration for any solicitation.
E. Cancellation of Request for Bids or Request for Proposals

Request for Bids, a Request for Proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the best interests of the Port Authority in accordance with regulations. The reasons therefore shall be made part of the contract file.

F. Responsibility of Bidders and Offerors

1. **Determination of Non-responsibility.** The Purchasing Manager shall make a written determination of non-responsibility of a bidder or offeror in accordance with regulations. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror.

2. **Public Records.** Florida law provides that Port Authority records shall at all times be open for personal inspection and copying by any person. Section 119.01, Florida Statutes et. seq., Florida Public Records Laws. Information and materials received by the Port Authority shall be deemed to be public records subject to public inspection upon the issuance of a notice to award, recommendation for award, or thirty (30) days after bid or proposal opening, whichever occurs first. However, certain exemptions to the public records laws are statutorily provided for in Section 119.071. If a bidder/proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the bidder/proposer must specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption. The Port Authority's determination of whether an exemption applies shall be final, and the bidder/proposer agrees to defend, indemnify and hold harmless the Port Authority and the Port Authority's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the Port Authority's treatment of any information as a public record.

3. **Substantiation of Offered Prices.** The Purchasing Manager may request factual information reasonably available to the bidder or offeror to substantiate that the price or cost of goods or services offered, or some portion of it, is reasonable, if:

   a) The price is not:

      1. based on adequate price competition;
      2. based on established catalogue or market prices; or
      3. set by law or regulation; and

   b) The price or cost exceeds an amount established by regulations.
G. **Policy Administration**

The provisions of this Section shall be liberally construed in order to effectively carry out the purposes hereof in the interest of public health, welfare, and safety of the citizens and residents of Lee County, the interests of the Port Authority and the traveling public, and the State of Florida.

H. **Cooperative Purchasing**

The Purchasing Manager shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the Authority would be served thereby.

I. **Performance and Payment Bonds/Insurance**

A Performance and Payment Bond with a surety company authorized to do business in the state may be required. The Executive Director or designee shall have authority to require a performance bond for any contract not to exceed $200,000.00 or to waive in writing, the requirement to provide a performance bond as to any contract. Any public works contract estimated to cost $200,000.00 or more requires a bond in accordance with Florida Statutes, Section 255.05 or other governmental regulatory requirement, or as amended, renumbered or replaced. The Port Authority’s Risk Manager will establish individual insurance requirements for construction specifications and contracts and applicable services Airport-wide.

J. **Negotiations**

1. When only one (1) bid is received in response to a competitive solicitation, or the purchase is deemed to be proprietary/sole source, negotiation is permitted in order to obtain a fair and reasonable price. For solicitations that result in a price at Board Level Authorization or higher, the final negotiated price shall be recommended to the Board for approval.

2. The Executive Director or authorized designee may negotiate to purchase used equipment when deemed to be in the best interests of the Authority. If the cost exceeds Board Level Authorization, the approval of the Board shall be obtained unless time does not permit. In this instance, the Board shall be informed of the circumstances and the purchase approved after the fact at the next scheduled Board meeting.

K. **Local Vendor Preferences**

It is the intent of the Board of Port Commissioners to establish an optional preference for local vendors offering to provide goods and services to the Port Authority when facts and circumstances warrant that the Port Authority may grant such a preference. It is, however, not the intent of the Board of Port Commissioners to prohibit, exclude, discourage or place at a disadvantage persons, firms, businesses or corporations that are nonlocal from providing goods and services to the Port Authority as part of a competitive selection process. All potential respondents to a competitive solicitation, Port Authority staff and the Airports Special Management Committee should be advised that the Board of Port Commissioners encourages award of contracts to local firms, consultants, contractors and providers when possible to foster the economic growth of the local community.
Section 255.0991, Florida Statutes (2015) prohibits the exercise of a local vendor preference in competitive solicitations for construction services if 50% or more of the cost will be paid by state-appropriated funds. In those cases the solicitation will contain a statement that the local vendor preference will not apply to that solicitation.

Pursuant to 49 CFR Part 18, requests for bids or proposals on projects and contracts that involve or may involve the use of federal dollars (e.g., Airport Improvement Program funds, American Recovery and Reinvestment Act funds, etc.) shall not include a local vendor preference. However, procurements for projects funded by other sources may consider local vendors in the evaluation of responses to requests for qualifications, requests for proposals and requests for bids as allowed pursuant to the regulations and restrictions on the planned or potential funding source. Language should be included in each competitive solicitation indicating if a local preference may be considered during the evaluation process. Nothing in this section obligates Port Authority staff, the Airports Special Management Committee or the Board of Port Commissioners to select a local vendor if the need for airport specialty services, conditions and/or circumstances warrant selection of a non-local vendor.

1. For purposes of this policy, “Local Vendor” shall have the same meaning as in Lee County Ordinance 00-10, as amended by Lee County Ordinance 08-26.

2. Construction Bids: In an effort to achieve the goals set by the Board of Port Commissioners outlined above, Port Authority staff, the Airports Special Management Committee, and the Board may give preference to local contractors and vendors that submit pricing within three percent (3%) of the lowest responsive, responsible competitive bid or quote total price (base bid plus Port Authority selected alternates). This section does not apply to the solicitation of contracts whereby any federal dollars have the potential to be used to fund a portion of the project or 50% or more of the project cost will be paid by state-appropriated funds.

3. Professional Services and Other Professional Services: In an effort to achieve the goals set by the Board of Port Commissioners outlined above, the Port Authority Staff Qualifications Committee, the Airports Special Management Committee, and the Board may give preference during the evaluation of any competitive solicitation to a local vendor due to the local firm’s ability to be more responsive, its knowledge of local conditions, experience with local regulatory permitting, commitment to the local economy, etc.

4. Other Procurement Methods (i.e., Design/Build, Requests for Proposals, etc.): As these types of solicitation involve the evaluation of both qualifications and price, both Sections 2 and 3 above may apply. This section does not apply to the solicitation of contracts where any federal dollars may be used to fund a portion of the project.
SECTION 5: COMPETITIVE SELECTION METHODS

5.1 Competitive Selection Methods

Unless otherwise authorized by law, all Port Authority contracts which are anticipated to exceed Board Level Authorization, either for the applicable fiscal year or cumulatively over the term of the contract, shall be awarded by one of the following methods.

A. Competitive Sealed Bidding. Capital construction projects and the purchase of goods or services that are estimated to exceed Board Level Authorization will be acquired through formal sealed bids except as otherwise provided in this Manual.

1. Notice Inviting Bids. Request for Bids shall be subject to the following:

   a) Request for Bids. A Request for Bids shall be issued and shall include a purchase description, and all contractual terms and conditions applicable to the procurement. No criteria may be used in bid evaluations that are not set forth in the Request for Bids.

   b) Public Notice. Adequate public notice of the Request for Bids shall be given a reasonable time prior to the date set forth therein for the opening of bids, in accordance with regulations. For construction projects valued at more than $200,000.00, notice thereof shall be advertised at least one (1) time in a newspaper of general circulation, calling for sealed bids upon the work to be done under the proposed contract, to be received no earlier than twenty-one (21) days from the first publication of notice as may be required by governing regulations. Construction projects valued at more than $500,000.00 shall be advertised in the same manner, but at least thirty (30) days prior to the bid opening. Notice for all other Requests for Bids shall be advertised in the most cost-efficient and effective manner.

   c) Bidders List. Notice of sealed bids may also be solicited from responsible prospective suppliers, who have requested the opportunity to bid on Port Authority projects, via whatever method is determined by the Purchasing Manager to be most effective and efficient while allowing sufficient time for the prospective bidder to submit a response.

   d) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Request for Bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded in a Register of Receipt prepared at the Bid Opening; the record of each bid shall be open to public inspection in accordance with applicable public records laws.
e) **Bid Bond.** When deemed necessary by the Purchasing Office in consultation with the requesting department, bid bonds shall be required in the Request for Bids. Unsuccessful bidders shall be entitled to a return of their bid bond where the Authority has required such following the issuance of a notice of award or a decision to reject all bids. A successful bidder shall forfeit any required surety upon failure on his part to enter into a contract after Authority approval or to meet other requirements as set forth in the Request for Bids.

f) **Correction or Withdrawal of Bids.** Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes shall be permitted in accordance with regulations. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Port Authority or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by written determination made by the Purchasing Manager.

g) **Award.** After review of submitted bids by Port Authority staff, the Purchasing Manager shall provide a "Notice of Intended Decision" to all bidders. The contract, if required, shall then be scheduled for consideration and approval and awarded by the Board with reasonable promptness, subject to funding availability, to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Request for Bids.

B. **Competitive Sealed Proposals**

1. **Conditions for Use.**

   a) Competitive sealed proposals is a competitive method used to acquire goods or services which due to their uniqueness are established around general guidelines or a description of a need for a service or a performance expectation of a particular service, rather than a firm specification written in detail and is used when limited to no fixed criteria exists. Competitive proposals are used only when it is not appropriate to use the sealed bid method. Goods or services may be solicited by competitive sealed proposals as determined by the Purchasing Manager in consultation with the requesting department.

   b) Regulations may provide that it is either not practical or not advantageous to the Port Authority to procure specified types of supplies, services, or construction by competitive sealed bidding.

   c) Contracts for auditing services shall be entered into by competitive sealed proposals or qualifications as provided for in accordance with Florida Statutes, Section 218.391, or as may be amended, renumbered or replaced.
2. **Public Notice.** Public notice for Requests for Proposals for construction projects shall be advertised in the same manner as Requests for Bids for construction projects of the same value. Adequate public notice for all other Requests for Proposals shall be given in the same manner as provided for other Requests for Bids.

3. **Proposal Opening.** Proposals shall be opened publically and a Register of Proposals shall be prepared in accordance with regulations. All proposals shall be open for public inspection in accord with public record requirements.

4. **Evaluation Factors.** The Request for Proposals shall state the relative importance of price and other factors and subfactors, if any. Judgmental factors may be used to determine not only if items offered meet the certain criteria but also to evaluate competing proposals.

5. **Proposed Fees.** The Authority may also require interested persons to submit their proposed fees or prices for the performance or delivery of their proposed services or goods, unless such pricing from interested persons is prohibited by law. Following the conclusion of the evaluation and prior to the contract award, such fees may be negotiated as set forth in the original Request for Proposals.

C. **Competitive Requests for Letters of Qualifications (CCNA)**

Competitive Letters of Qualifications is a competitive method with qualifications and experience, not cost, being the primary selection factor. The procedures outlined below will be used for the acquisition of Professional Services as defined under the Consultants' Competitive Negotiations Act ("C.C.N.A.") Section 287.055, Florida Statutes or as otherwise required under Florida Statutes (e.g., Florida Statutes Section 218.391, etc.).

1. **Conditions for Use.**
   a) A contract may be solicited by competitive request for qualifications when the Purchasing Manager in consultation with the requesting department determines, pursuant to regulations, that the use of competitive sealed bidding or proposals is either not practical or not advantageous to the Port Authority. Such determination is not required when in accord with governing laws.
   b) Professional Services required to be procured in accordance with Florida Statutes, Section 287.055, or as amended, will be acquired by Competitive Requests for Letters of Qualifications.
   c) Public Notice. Adequate public notice of the Request for Qualifications shall be given in the manner required by law.
   d) Receipt of Qualifications. A Register of Receipt shall be prepared and shall be open for public inspection in accord with public record requirements.
   e) Evaluation Factors. Judgmental factors and the evaluation criteria set out in Section 9 of this Manual will be used to determine not only if responding firms meet the certain criteria but also to evaluate competing qualifications.
D. Competitive Request for Letters of Qualifications (NON-CCNA)

Other Professional Services as defined herein and not covered under the CCNA and above the Board Level Authorization will follow procedures outlined in each individual Request for Letters of Qualifications solicited. Other professional services procured which solicit subcontracts for construction projects shall be required to comply with Florida Statutes, Sections 255.0525 and 255.20, as amended, and 49 Code of Federal Regulations Part 18, if federal funds are involved.

5.2 Small Purchases (Quotations)

A. Whenever material, equipment and supplies are needed in connection with the usual and customary operation of the Authority, the procedure for obtaining same shall be governed by this Policy.

B. Purchases equal to or under Board Level Authorization shall require responses be solicited for each group of goods required. Either a contract or purchase order contract may be completed for these items at the discretion of Purchasing. Purchasing shall coordinate with the appropriate department to determine the lowest, most responsive and responsible bidder. Goods estimated below Board Level Authorization do not require advertising and responses are not required to be opened in public. Additionally, Board approval of the award is not required and the Bid Protest Procedure does not apply. Additional procedures govern these procurements; however, in general:

1. **Verbal Quotations.** Verbal quotations shall be used to purchase goods or services from one cent ($0.01) to $10,000.00, unless the purchase will use Federal Grant funds. Written quotations are optional and sought at the department level at the discretion of Purchasing.

2. **Written Quotations.** Written quotations shall be used to purchase goods or services from $10,001.00 up to Board Level Authorization. If the purchase will be paid for using Federal Grant funds, written quotations are required for any purchase of $3,000.00 up to Board Level Authorization. A minimum of three written quotations shall be solicited by the requesting department or by Purchasing, at Purchasing’s discretion.

5.3 Utilization of Other Competitively Procured Contracts

It has been determined that it may be to the Port Authority’s best interest to utilize other competitively procured contracts to take advantage of efficiencies in the procurement process. A contract may be awarded for a commodity or service when the Purchasing Manager determines that utilizing the contract is authorized and in the Port Authority’s best interest under the following circumstances:

A. Utilization of State of Florida Contracts in which the Port Authority has direct authority under Florida Administrative Code, Rule Section 60A- 1.005.

B. Cooperative Purchases in which the Port Authority has entered into an agreement with other local governmental entities to provide for cooperative purchasing.

C. General Service Administration (GSA) Agreements established by the federal government which provides current vendor pricing.
D. Piggybacking. When goods and services have gone through a competitive solicitation process by another governmental entity (i.e., municipal or county governments, or other qualified agencies), the Port Authority may "piggyback" the awarded contract and take advantage of the specified level of service, contract terms, and pricing received. Such current agreement must be maintained in the Purchasing Office and remain in file in accord with public records laws.

5.4 Sole Source Procurement

A contract may be awarded for a supply, service, system, software or construction good or service without competition when the Purchasing Manager determines in writing that there is only one authorized source for the required good, service, system, software or construction item; or if use of a specific product or service is required to preserve the Port Authority’s pre-existing warranty or contractual rights; or, if the product is proprietary and a trade secret under Section 812.081, Florida Statutes, or as amended, renumbered, or replaced, and is required to maintain compatibility with existing or proposed Port Authority equipment, facilities, systems, services or software. Such recommendation must accompany the Board approval request if the value of the purchase is over the Board Level Authorization.

The Purchasing Manager shall be authorized to enter into direct negotiations pertaining to the costs and products determined to be sole source.

5.5 Emergency Purchases

In the event of, or in anticipation of, a natural or manmade disaster, including but not limited to, a hurricane, tornado, flood, fire, aircraft incident, riot or other act of God, or an act of domestic terrorism, the Executive Director is authorized to declare an emergency event or a state of emergency for purchasing purposes. Nothing in this section shall be construed to limit the authority of the Board to declare or terminate a state of emergency and take any action authorized by law when sitting in a regular or special meeting. During the declared emergency period, all normal purchasing procedures and requirements shall be suspended and the following procedures shall apply:

A. The Executive Director shall be empowered to authorize the Purchasing Manager to secure any needed emergency supplies, materials, equipment or services using the most efficient and effective procurement methods, as determined by the Purchasing Manager. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the Board at the earliest available regular or special Board meeting.

B. By Department Head. With the approval of the Executive Director, or Purchasing Manager if so designated by the Executive Director, the head of any department may purchase any needed emergency supplies, materials, equipment or services, using the most effective procurement methods, as determined by the department head. If the cost of any purchase exceeds the current Board Level Authorization, a full report of such purchase shall be made to the Board at the earliest available regular or special Board meeting.
C. Other municipalities. The Executive Director, or Purchasing Manager if so designated by the Executive Director, may request another municipality to purchase for the Authority any needed emergency supplies, materials, or equipment or the Authority may purchase from another municipality any needed emergency supplies, materials or equipment such municipality has available. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the Board at the earliest available regular or special Board meeting.

Notwithstanding any other provision of this policy, the Executive Director or Purchasing Manager or a designee of either may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions described herein; provided that such emergency procurements shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular vendor shall be included in the contract file.

5.6 Special Procurements

Notwithstanding any other provision contained herein, the Purchasing Manager may initiate a procurement above the small purchase amount specified herein where the Executive Director determines that an unusual or unique situation exists that makes the application of all requirements of competitive sealed bidding or competitive sealed proposals or qualification contrary to the public interest. Any special procurement under the section shall be made with such competition as is practical under the circumstances. A written determination of the basis for the procurement and for the selection of a particular vendor shall be included as backup to the recommendation to the Board for approval.
SECTION 6: EXEMPTIONS FROM COMPETITIVE SOLICITATION PROCESS

The following purchases are exempt from all competitive solicitation requirements. Unless an exemption is specifically prohibited by federal, state or local law, the Board of Port Commissioners is not required to authorize purchases of exempt commodities or contractual services whose cost equals or exceeds Board Level Authorization. Requisitions may be executed by an authorized signature so long as the purchase is within the funds of that department and requested with the approval of Purchasing:

A. Purchases from another governmental entity or non-profit agency;
B. Professional memberships, licenses, subscriptions, or certifications for Port Authority employees where such is a requirement of the employee's job classification or duties or of direct benefit to the Port Authority;
C. Purchase of items for resale at Page Field;
D. Airport sponsored events at hotels, motels, restaurants, travel, and entertainment, that fall under the provisions of Section 331.20, Florida Statutes, or as amended, renumbered or replaced;
E. Payment for utilities such as water, sewer, natural gas, electricity solid and liquid waste disposal, local and long distance telephone service, etc.;
F. Payment for cellular telephone service, including voice, text, and data service;
G. All advertising for billboard, magazine, television, etc., as approved by Communications and Marketing; advertising for employment listings, as approved by Human Resources; advertising for the purchase of goods and services as approved by Purchasing; and lost and found notices as approved by the Airports Police Department;
H. Payments required by court order as evidenced by a written order of a court having jurisdiction and showing a case number, date of signing by a judge and/or resolution dated by the Board;
I. Computerized published legal research materials as requested by the Port Authority Attorney's Office;
J. 700 or 800 MHz Radio System equipment fixed-end, maintenance and repairs including air time;
K. Annual computer software and hardware maintenance and support. This exemption includes annual software licensing fees if not included in the original purchase;
L. TSA Mandated Security Background Checks;
M. Applicant and Employee Drug Testing, and pre-employment and employee physicals;
N. Retention of outside counsel for specialized legal matters and Legal Support Services as approved by the Port Authority Attorney's Office;
O. Aircraft maintenance and repair, including parts and accessories, for aircraft owned or operated by the Port Authority;

P. Purchase of annual liability, property and casualty, and other lines of insurance as required to protect Port Authority assets at the recommendation of an Insurance Broker/Agent of record retained by the Authority to negotiate the most favorable rates for such coverage;

Q. Miscellaneous Obligations/Disbursements (i.e., land, purchases, etc.);

R. Land appraisals obtained utilizing Lee County contractual agreements or another competitive solicitation method;

S. Airport concession and ground or space leases solicited under the Port Authority Concession Leases and Concession Agreements Policy, Section 700 of the Lee County Port Authority Policy Manual, or as amended, renumbered, or replaced;

T. Permit fees and special assessments; and

U. Reimbursement of Qualifying Airline marketing activities to promote New or Additional Nonstop Airline Passenger Service under the terms of the Port Authority's Air Service Incentive Program.
SECTION 7: CONTRACTS

7.1 Contracts

A. Contracts

The Executive Director, his or her designee, or the Purchasing Manager shall have the authority to sign for the Port Authority in executing commodity purchases and service agreements up to the current Board Level Authorization.

The Executive Director, or his or her designee, is authorized to approve, execute and authorize all individual contract changes on projects in dollar amounts less than the project budget approved by the Board.

Any contract changes, which require an increase or decrease to the project budget or a substantial change to the project scope of work must be approved by the Board.

All agreements, excluding purchase order agreements, require approval of the Port Authority Attorney's Office.

Extensions or contract renewals that equal or exceed Board Level Authorization must be authorized by the Board, unless otherwise permitted by the Board.

All contracts for performance of professional services/other professional services for the Authority that equal or exceed Board Level Authorization, except for contracts for the performance of legal services, shall be awarded in accordance with the competitive provisions contained herein, unless exempt. All contracts for services which do not equal or exceed Board Level Authorization may be approved by the Executive Director or authorized designee without competitive bidding or negotiation.

B. Capital Construction Project Development Policy

The Development Division may prepare a Total Project Budget for all Port Authority Capital Construction projects. The Total Project Budget will include all items necessary to successfully complete the project including, without limitation, design, permitting, mitigation, land acquisition, construction management, construction and all contingencies.

Contingencies must be presented to the Board as part of the Total Project Budget. Contingencies may vary dependent upon the total dollar value and the complexity of the project and may be applied to any project contract within that Total Project Budget. Each time a project contract is approved by the Board in accordance with the provisions outlined in this Manual, the Total Project Budget will also be presented and/or updated for Board approval. All project costs shall not exceed the Board-approved Total Project Budget. Any increases or decreases to the Total Project Budget beyond the initial approval amount; any project contract changes that require an increase or decrease to the Total Project Budget; and any substantial changes to the project scope of work shall be approved by the Board.
The Executive Director or authorized designee is authorized to approve, execute and authorize all individual contract changes in dollar amounts less than the Total Project Budget approved by the Board.

If no Total Project Budget has been approved for a project, the Executive Director or authorized designee may approve individual contract changes up to the Executive Director Level Authorization and up to a cumulative annual cap of $1,000,000.00 per contract. Contract changes that exceed the cumulative annual cap must be approved by the Board.

C. Vendor Name Changes

When a vendor who has been awarded a formal written quotation, bid, or a formal proposal has a name change through a merger, acquisition, etc., Purchasing will verify the name change and the new vendor’s willingness to provide the goods or services under the same terms and conditions. Once verification is complete, Purchasing will notify the Executive Director, or his or her designee, who shall approve the name change in writing, based on the verification of Purchasing and review by the Port Attorney's Office. Purchasing will then notify any affected departments so that proper measures can be taken to change all affected records.

Purchasing is further authorized to accept and validate a vendor name change on an informal written quotation without further administrative approval.

This section may not be used to allow a vendor to assign a contract, where such assignment is prohibited in the quote, bid, proposal, and contract or purchase order.
SECTION 8: WOMAN-OWNED, MINORITY-OWNED AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Lee County Port Authority is dedicated to promoting the full participation of Disadvantaged Business Enterprises (DBEs), Airport Concession Disadvantaged Business Enterprises (ACDBEs), and Woman and Minority-Owned Business Enterprises (W/MBEs) in the economic activities and capital improvement projects at the Southwest Florida International Airport and Page Field airports. Therefore, any individual or firm that enters into an agreement with the Port Authority shall make every possible effort to include DBEs, ACDBEs, and/or W/MBEs in their operational plan, as appropriate. This includes, but is not limited to, subcontracting, joint ventures, management agreements, and the acquisition of services, materials and supplies. The Port Authority will establish and maintain programs to support and comply with DBE, ACDBE, and W/MBE policies and regulations as follows:

8.1 Disadvantaged Business Enterprise Policy (DBE)

U.S. Department of Transportation (USDOT) Title 49 Code of Federal Regulations (49 CFR Part 26) requires that the Port Authority administer a Disadvantaged Business Enterprise (DBE) program for all capital projects and contracts whereby the Port Authority may receive federal financial assistance from the USDOT for projects which cost in excess of $250,000.00. As a condition of receiving this grant assistance, the Port Authority submits its DBE achievements to the Federal Aviation Administration (FAA) in compliance with 49 CFR Part 26. Administrative procedures implementing the Port Authority DBE Policy shall be maintained and amended to ensure compliance with the federal DBE program for all federally funded capital projects and contracts.

8.2 Airport Concession Disadvantaged Business Enterprise Policy (ACDBE)

U.S. Department of Transportation (USDOT) Title 49 Code of Federal Regulations (49 CFR Part 23) encourages the participation of Airport Concession Disadvantaged Business Enterprises (ACDBEs) in Port Authority concession-related contracting opportunities. It is, therefore, the policy of the Port Authority that ACDBEs have the maximum opportunity to compete for and participate fairly in concession-related contracting opportunities for airport concessions. The Port Authority submits its ACDBE achievements to the Federal Aviation Administration (FAA) for approval in compliance with 49 CFR Part 23. Administrative procedures implementing the Port Authority ACDBE Policy shall be maintained and amended as necessary to ensure compliance with the federal ACDBE program for all airport concession contracts.

8.3 Woman and Minority-Owned Business Enterprise Policy (W/MBE)

Although there is no federal requirement for airports to implement additional disadvantaged business programs other than the DBE and ACDBE programs listed above, the Port Authority hereby voluntarily enacts a policy that Woman and Minority-Owned Business Enterprises (W/MBEs) will have full and fair opportunities to compete for and participate in the performance of contracts on non-federally funded Port Authority capital projects and contracts. The Port Authority will encourage all current and prospective contractors, consultants, and lessees, to assist in implementing this policy by taking the necessary measures to ensure meaningful and equitable participation by W/MBEs and to encourage the development of existing and new W/MBEs. Administrative procedures implementing the Port Authority W/MBE Policy shall be maintained and amended as necessary for all airport capital improvement contracts.
SECTION 9: REVIEW OF LETTERS OF QUALIFICATIONS AND PROPOSALS

9.1 Review of Submittals Received in Response to Requests for Letters of Qualifications and Proposals

A. Staff Evaluation Committee Responsibility and Function

1. All Letters of Qualifications and Proposals shall be reviewed by a Staff Evaluation Committee consisting of the Purchasing Manager and such other staff members as the Purchasing Manager and the requesting department shall designate. A representative of the Office of Grants and Governmental Affairs shall serve on the Committee for all projects requesting DBE, W/MBE or ACDBE participation and such other projects as the Purchasing Manager may request. The Purchasing Manager, or his or her designee, shall serve as the facilitator for all Staff Evaluation Committee meetings.

2. The Staff Evaluation Committee shall be responsible for evaluating the qualifications and capabilities of firms who have submitted proposals in response to the request for proposals/qualifications. Committee evaluations shall be conducted at a publicly noticed meeting and minutes of the meeting shall be taken. Evaluations may include such activity as is deemed appropriate by the Committee to verify the qualifications and capabilities of the firms submitting qualifications or proposals and their ability to furnish the required goods or services.

The Staff Evaluation Committee, at its discretion, may request oral, written or visual presentations from; conduct interviews with; or conduct visits to the office, facilities or projects of the proposers it selects from among those submitting letters of qualifications or proposals.

After completing a review of all submitted proposals, the Staff Evaluation Committee shall forward all responsible and responsive submittals to the Airports Special Management Committee, along with a recommendation that includes a suggested order of preference of the firms the Evaluation Committee finds most qualified or have submitted the best proposal.

B. Airports Special Management Committee Evaluation

At a public meeting, the Airports Special Management Committee shall consider the Staff Evaluation Committee’s recommendation and review all submitted letters of qualifications or proposals. The Airports Special Management Committee, at its discretion, may request oral, written or visual presentations from; conduct interviews with; or conduct visits to the office, facilities or projects of the firms it selects from among those submitting qualifications or proposals. The Committee may waive oral presentations or interviews. If no oral presentations or interviews are requested, the Airports Special Management Committee shall make its selections based on its review of the submitted materials and the staff evaluation qualified firms at its initial public meeting.
The Executive Director or authorized designee, the Authority staff, and members of outside agencies (i.e., FAA and FDOT) may participate in the oral presentations or interviews as appropriate.

For proposals to provide goods and services, the Airports Special Management Committee evaluation may include but is not limited to such factors as: quality of the product or service; price; past performance; willingness and ability to meet time and budget requirements; ability to furnish the required services or product; and such other factors as may be determined by the Committee to be applicable to the particular requirements of the solicitation and in the best interest of the Lee County Port Authority.

Consideration shall be given to Disadvantaged Business Enterprise, Minority Business Enterprise and Women Business Enterprise firms in accordance with applicable governmental laws, policies or regulations.

At the conclusion of its evaluations, the Airports Special Management Committee shall vote to establish, a list of at least three (3) firms in order of preference, most qualified and capable to provide the product or perform the services required. If the vote results in a tie between the most qualified firms, a second vote will be taken to break the tie. If the vote results in a second tie, then the Staff Evaluation Committee’s evaluation of the Letters of Qualification or proposals shall serve to break the tie. The Airports Special Management Committee shall report its recommendations and order of preference to the Board of Port Commissioners. Should the Airports Special Management Committee determine from its evaluations that there are less than three (3) qualified firms submitting letters of qualifications or proposals, it shall provide the Board of Port Commissioners with such recommendation(s) as it deems appropriate under the circumstances.

Following the conclusion of the Airports Special Management Committee meeting, Purchasing will send notice of the Committee’s proposed consultant ranking and recommendations to each submitting consultant.

C. Evaluation Criteria for Letters of Qualification

Pursuant to Florida Statutes Section 287.055 (4)(b), or as amended, renumbered or replaced, in determining whether a firm is qualified, the Port Authority shall consider a number of factors, including the “recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.” It is the intent of the Board of Port Commissioners to provide opportunities to all qualified firms to gain airport experience and to broaden the number of qualified firms available to provide services to the Port Authority as a diversified resource which promotes competition. Therefore, all respondents to competitive solicitations are advised that Port Authority staff, the Airports Special Management Committee and the Board of Port Commissioners will place emphasis on reviewing current workload when being considered for Port Authority projects/assignments. Firms with a significant amount of current ongoing Port Authority work may be ranked lower to offer opportunities to other qualified firms.
D. Action by the Board of Port Commissioners

The Board of Port Commissioners, after consideration of the recommendation(s) and order of preference reported by the Airports Special Management Committee, will take such action as it deems appropriate to approve, in order of preference, the firms that it deems qualified and capable to provide the product or perform the services required. Subsequent to the ranking of firms by the Board of Port Commissioners, Purchasing shall send written Notice of Ranking to the highest ranking firm and shall notify all firms that submitted Letters of Qualifications or Proposals of the ranking.

E. Contract Negotiations

Once the Board completes its ranking, staff will negotiate a professional services agreement with the number-one ranked firm that meets the requirements of the Port Authority. If staff is unable to negotiate such an agreement, staff will formally terminate negotiations with the highest ranked firm in writing and open negotiations with the number two ranked firm. If necessary, staff will formally terminate negotiations with the number two ranked firm and continue negotiations with subsequently ranked firms until it obtains an agreement that can be presented to the Board of Port Commissioners for review. The decision to formally terminate negotiations and commence negotiations with a subsequently ranked firm may be made by the Director of the project sponsoring department.

The Board of Port Commissioners shall approve, reject or modify all professional services agreements for projects that are over Board Approval Level in cost.
SECTION 10: BID PROTEST PROCEDURES

10.1 Bid Protest Procedures

A. Any bidder that has submitted a bid and is affected adversely by an intended decision with respect to the award of any bid that allows the filing of a protest, shall file with Purchasing a written "Notice of Intent to File a Protest" no later than forty-eight (48) hours (excluding Saturdays, Sundays and legal holidays) after receipt of the "Notice of Intended Decision" from the Port Authority with respect to the award of the bid. This procedure does not apply to requests for letters of qualifications, requests for proposals, requests for information or quotes.

B. For the purpose of computation, the Notice of Intent to File a Protest must be received by the Purchasing Manager no later than four o’clock (4:00) p.m. on the second working day following the day of receipt of the Notice of Intended Decision.

C. The initial Notice of Intent to File a Protest shall state the basis of the protest and clearly indicate that its purpose is to serve as the initial notice of intent to file a bid protest. Failure to clearly indicate that intent shall constitute a waiver of the right to seek any remedy provided under this bid protest procedure.

D. After timely filing a Notice of Intent to File a Bid Protest, a protester must file a formal written protest within five (5) Port Authority workdays after the date of filing of the Notice of Intent to File a Protest to perfect the protest. Failure to timely file a formal written protest shall invalidate the Notice of Intent to File a Protest.

E. Except as provided in the paragraph below, upon filing a formal written protest the protester shall post a bond, payable to the Port Authority, in an amount equal to five percent (5%) of the total of the bid, or ten thousand dollars ($10,000.00) whichever is less. Said bond shall be conditioned upon the payment of all costs which may be adjudged by the Board against the protester in the event of an adverse determination of the protest. An Irrevocable Letter of Credit or other form of approved security, payable to the Port Authority, will be accepted. Failure to submit a bond or acceptable Letter of Credit simultaneously with the formal written protest shall invalidate the bid protest, at which time the Port Authority may continue its procurement process as if the bid protest had never been filed.

F. If circumstances are presented in writing to the Executive Director or authorized designee demonstrating that a delay incident to suspending the bid award process would be detrimental to the best interests of the Port Authority or the public's health, safety or welfare, the Executive Director, or authorized designee, may authorize an expedited bid protest hearing procedure. The expedited hearing shall be heard within ninety-six (96) hours of the action giving rise to the bidder’s protest, or as soon as the Port Authority deems practical. If an expedited hearing process is used, the Notice of Intent to File a Protest shall serve as grounds for the protest hearing and the filing of a formal written protest and the requirement to post a bond (unless previously posted) will be waived.
G. Any amendment to the formal written protest shall be in writing and received by the Purchasing Manager within five (5) Port Authority workdays of the date of filing of the Notice of Intent to File a Protest. No amendments shall be allowed after the five (5) Port Authority workday period has expired.

H. The formal written protest shall contain the following:
   1. Port Authority bid identification number and title.
   2. Name and address of the proposed recipient of the bid award (the affected party).
   3. The name and address of the protester, and the title or position of the person submitting the bid protest.
   4. A statement of disputed issues of material fact. If there are no disputed material facts, the written protest must so indicate.
   5. A statement indicating the relief to which the protester deems him/herself entitled.
   6. A concise statement of the facts alleged and of the rules, regulations, statutes, and constitutional provisions entitling the protester to relief.
   7. Such other information as the protester deems to be material to the issue.

I. Upon receipt of a formal written protest, timely filed, the Purchasing Manager shall abate the bid solicitation process or award of contract until the protest is resolved pursuant to fundamental principles of due process, except and unless the Executive Director makes a written determination that it is in the best interest of the public to continue the bid solicitation or the contract award process for the purpose of avoiding immediate and serious danger to the public health, safety, and welfare, or the potential loss of funds for the project.

J. All bid solicitations and notices of decisions or intended decisions, with respect to bid awards, shall set forth the following statement:

   "Failure to Follow the Bid Protest Procedure set out in the Lee County Port Authority Purchasing Manual Shall Constitute a Waiver of Your Protest and Resulting Claims."

10.2 Bid Protest Review

A. Any formal written protest to an intended bid award filed in compliance with these procedures will be referred to the Port Authority's Bid Dispute Committee for review. The Bid Dispute Committee shall be responsible for reviewing all bid protests at an informal hearing and making recommendations to the Board of Port Commissioners regarding such bid protests.

B. The Bid Dispute Committee will be comprised of the members of the Airports Special Management Committee. A quorum will consist of the three Regular Members of Airports Special Management Committee. The Purchasing Manager shall be available to facilitate the conduct of the informal hearing. Staff and other experts and professionals involved with the solicitation shall also attend to provide professional and technical advice and recommendations to the Committee.
C. The Port Authority Attorney (or designee) shall attend the bid protest hearings to provide legal counsel, but shall not be a voting member of the Bid Dispute Committee.

D. The Bid Dispute Committee shall conduct a publicly advertised informal hearing with the protester and any affected party at the next publicly scheduled Airports Special Management Committee meeting following receipt of the formal written protest. At the discretion of the Executive Director, a special publicly advertised Bid Dispute Committee meeting may be scheduled as long as a quorum is available. The Bid Dispute Committee Chairman shall provide an opportunity to all affected parties to make presentations and rebuttals, subject to reasonable time limitations. The purpose of the hearing is to review the basis of the protest; evaluate the facts and the merits of the protest; and prepare a recommendation to the Board of Port Commissioners whether to accept or reject the protest and for the resolution of the protest.

E. An agenda item with the recommendation of the Bid Dispute Committee shall be scheduled before the Board of Port Commissioners for final consideration. Following presentations by the protestor(s) and any affected party, the Board will render its decision on the merits of the protest.

F. If the Board upholds the recommendation of the Bid Dispute Committee and further finds that the protest was frivolous and/or lacked merit, the Board, in its discretion, may assess costs, charges, or damages associated with any delay of the award or any costs incurred with regard to the bid protest procedure. These costs, charges, or damages may be deducted from the security provided by the protester pursuant to this procedure. Any costs, charges or damages assessed by the Board in excess of the bond security shall be paid by the protester within thirty (30) calendar days of the Board’s determination thereof.
SECTION 11: PURCHASING CARD POLICIES

11.1 Purchasing Card Policies

The Lee County Port Authority Purchasing Card Program is designed to improve efficiency in processing low dollar purchases from any vendor that accepts the established program’s credit card (Visa, MasterCard, etc.). This program allows the cardholder to purchase approved commodities directly from our vendors. Each purchasing card is issued to a named individual and the Lee County Port Authority is clearly shown on the card as the Governmental buyer of goods and services. Purchasing and Finance will monitor the performance of the program.

This Policy sets the minimum standards for Departments and Divisions. Each Department and Purchasing may establish additional controls.

The Purchasing Card system simplifies the procurement/disbursement process. Procurement responsibility is delegated to the ordering Department or Division enabling an authorized cardholder to place an order directly with the vendor.

The purchasing card is to be used for Port Authority authorized purchases only. The purchasing card cannot be used for any personal use and any such use will require immediate reimbursement and will result in disciplinary action which may include dismissal.

During Hurricanes or other declared emergencies, a few selected Authority staff cardholders and other departments as deemed necessary will have their accounts activated to serve as Emergency cards.

Procedures for use of Purchasing Cards shall be set out in the Purchasing Department Guidelines. If there is a conflict between the Guidelines and the provisions of this Manual, the latter shall control.
SECTION 12: DISPOSAL OF SURPLUS, LOST OR ABANDONED PROPERTY

12.1 Disposal of Surplus Tangible Personal Property

Under Chapter 274, Florida Statutes, the Board has delegated authority to dispose of tangible personal property owned by the Port Authority to the Executive Director or his or her authorized designee. There are two statutory procedures for disposing of surplus personal property.

A. In accordance with Florida Statutes, Section 274.05, the Executive Director, through Purchasing, shall have discretion to classify as surplus any Port Authority property, that is not otherwise lawfully disposed of, that is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function. Within the reasonable exercise of that discretion, and having consideration for the best interests of the Authority, the value and condition of property classified as surplus, and the probability of such property's being desired by the prospective bidder or donee to whom offered, the Executive Director or designee may offer surplus property to other governmental units in the county or district for sale or donation or may offer the property to private nonprofit agencies as defined in Section 273.01(3), Florida Statutes, by sale or donation. If the surplus property is offered for sale and no acceptable bid is received within a reasonable time, the Authority shall offer such property to such other governmental units or private nonprofit agencies as determined by the Authority on the basis of the foregoing criteria. Such offer shall disclose the value and condition of the property. The best bid shall be accepted by the Authority. The cost of transferring the property shall be paid by the governmental unit or the private nonprofit agency purchasing or receiving the donation of the surplus property.

B. Alternative procedure - Having consideration for the best interests of the Authority, any of the Authority’s property that is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function, property is not otherwise lawfully disposed of, may be disposed of for value to any person, or may be disposed of for value without bids to the state, to any governmental unit, or to any political subdivision as defined in Section 1.01, Florida Statutes, or if the property is without commercial value it may be donated, destroyed, or abandoned. The determination of property to be disposed of by the Authority pursuant to this section instead of pursuant to other provisions of law shall be at the election of the Authority in the reasonable exercise of its discretion. Property, the value of which the Authority estimates to be under $5,000.00, may be disposed of in the most efficient and cost-effective means as determined by the Authority. Any sale of property the value of which the Authority estimates to be $5,000.00 or more shall be sold only to the highest responsible bidder, or by public auction, after publication of notice not less than one (1) week nor more than two (2) weeks in a newspaper having a general circulation in Lee County in accordance with Florida Statutes, Section 274.06.
C. Any equipment purchased with federal grant dollars that has a salvage value over $5,000.00 should be sold for whatever profit can be received, but not less than the salvage value, and the proceeds used on an FAA-eligible project. If the value is less than $5,000.00, the equipment can be donated.

12.2 Disposal of Personal Property Lost or Abandoned in Port Authority Airports

Per Section 705.182, Florida Statutes, whenever any lost or abandoned personal property (except for aircraft or motor vehicles) is found on premises owned or controlled by the operator of a public-use airport, the Executive Director, or his or her designee, shall take charge thereof and make a record of the date such property was found. If, within thirty (30) days after such property is found, or a longer period of time as may be deemed appropriate by the Executive Director or the director’s designee, the property is not claimed by the owner, the director or designee shall:

A. Retain the property for airport use;
B. Trade the property to a state agency or another local government;
C. Donate the property to charitable organization;
D. Dispose of the property through a refuse removal company; or
E. Order it sold at a public auction after giving notice of the time and place of sale in a publication of general circulation and after written notice to the owner if known. The rightful owner of such property may reclaim same at any time prior to sale.

All moneys realized from such sale by an airport, less its costs of storage, transportation, and publication of notice, shall, unless another use is required by federal law, be retained by the airport for use by the airport in any lawfully authorized manner.

12.3 Surplus Real Property

Disposal of surplus airport lands must meet the requirements of all federal and state regulations, grant assurances and compliance agreements, and all regulations related to the determination of fair market value.
SECTION 13: DESIGN BUILD CONTRACTS

The Board of Port Commissioners hereby delegates to the Executive Director authority to designate certain Port Authority construction projects as design-build projects. All such projects shall be designed and the construction contract awarded in accord with the requirements of Section 287.055(9), Florida Statutes, and the design-build contracting provisions of this Manual.

13.1 Definitions - for purposes of this section:

A. "Design Criteria Professional" - shall have the meaning set out in Section 287.055(k), Florida Statutes (1998 Supp.) or as amended, renumbered or replaced.

B. "Design Criteria Package" - shall have the meaning set out in Section 287.0550), Florida Statutes (1998 Supp.) or as amended, renumbered or replaced.

C. "Design-Build Firm" - shall have the meaning set out in Section 287.055(h), Florida Statutes (1998 Supp.) or as amended, renumbered or replaced.

D. "Design-Build Contract" - shall have the meaning set out in Section 287.055(1), Florida Statutes (1998 Supp.) or as amended, renumbered or replaced.

13.2 Project Announcement and Legal Qualifications

A. Public Announcement

When the Executive Director or authorized designee determines that a project shall be constructed as a design-build contract under this Section, and except in the case of a valid public emergency declared by the Board, the Authority shall publicly advertise in a uniform and consistent manner on each occasion when design-build services are required.

Purchasing will maintain a bidders list to include design-build firms. Adequate public notice of the project shall be given in the same manner as provided for in Competitive Sealed Bids.

B. Legal Qualification

Any firm or individual desiring to provide design-build services to the Port Authority must first be determined legally qualified.

Legal qualifications include:

1. Firms must be properly certified to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; and

2. Firms must be properly certified to practice or to offer to practice engineering, architecture, or landscape architecture; and

3. The firm shall be duly qualified to perform its proposed service under any other applicable law.
13.3 Selection Process

Pursuant to Section 287.055(9) Florida Statutes, as amended, the Authority shall award design-build contracts using either a competitive proposal selection process as described in this subsection or a qualifications-based selection process pursuant to subsections (3), (4), and (5) of Sections 287.055 Florida Statutes to enter into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date for the project.

A. Competitive Proposals - If the Authority elects to use the competitive proposals to award a design-build contract, it will use the following process.

1. Design Criteria Package

   a) All design-build projects initiated using the competitive proposal process require a design criteria package to define the project parameters that are to be used to evaluate and govern the proposal. This design criteria package consists of concise performance-oriented drawings or specifications, or both, for the project. The criteria shall include as a minimum the following, as applicable to the project:

      (1) Legal description of the site.
      (2) Survey information concerning the site.
      (3) Interior space requirements.
      (4) Material quality standards.
      (5) Schematic layouts and conceptual design criteria of the project.
      (6) Cost or budget estimates.
      (7) Design and construction schedules.
      (8) Site development requirements.
      (9) Provisions for utilities, storm water retention and disposal.
      (10) Parking requirements.
      (11) Available land, easements, and rights-of-way to be utilized.
      (12) Processes, standards, or specific requirements to meet Port Authority needs.
      (13) Performance requirements and milestones.

   b) The design criteria package shall be prepared and sealed by a design criteria professional employed by or retained by the Authority under the provisions of the Consultants Competitive Negotiations Act and the procedures set out in Section 9 of this Manual.

   c) A design criteria professional who has been selected to prepare the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package.
d) The design criteria professional shall develop criteria using the general or specific guidelines of the Authority and shall utilize the following methods (or combinations thereof) as directed and supervised by the Authority.

(1) Developing a written criteria defining the requirements of the design-build project.

(2) Developing schematic plans or guide specifications, or both, for use by the prospective design-build firm in preparing, proposal documents.

(3) Utilizing previously completed or partially completed designs (prepared for the Authority by others) with written criteria to define the specific requirements of the project.

e) The Director of the department shall consult with the design criteria professional concerning its duties, which may include, but are not limited to:

(1) Evaluation of the responses or bids submitted by design-build firms;

(2) Supervision or approval of the detailed working drawings and review of the design-build firm's design for the project; and

(3) Evaluation of the compliance of the project construction with the design criteria package.

f) The Authority may elect to have any of the services referenced in sub-paragraph (1.a) above performed by Authority personnel or another qualified firm or entity.

2. Selection Procedure

a) Solicitation

The department shall develop the scope of work for the design-build project. Purchasing shall then develop a Request for Proposals (RFP) to solicit proposals from interested, legally qualified design-build firms. The RFP shall contain as a minimum the following:

(1) The design criteria package.

(2) Submittal requirements.

(3) Performance criteria.

(4) Basis for selection (i.e., price, points, or a combination of the two).

(5) Method of selection (one of the following) shall be determined at the reasonable discretion of the Director of the department.

(a) Single Step. Selection of no less than three (3) design-build firms, and acceptance of a lump sum proposal, based on the evaluation criteria outlined in the RFP. This criteria will include price, technical and design aspects of the project.
(b) Two Step. Selection of no less than three (3) design-build firms by qualifications based on the requirements outlined in the RFP including technical and design aspects of the project, and then a review of the price proposals for final selection. The design-build firms shall be ranked on the basis of both qualifications and price.

(c) Two Phase. Selection of no less than three (3) qualified design-build firms with a recommendation that two firms be awarded a contract to provide 30% design for a fixed price. Upon completion of the 30% design, the two (2) design-build firms will provide a fixed price for completion of their design and construction of the project. Award will be made on a cost per point basis where the points are determined by evaluation of the submitted design as provided in the RFP.

(6) Requirements for determining qualification.

(7) Terms and conditions of proposed agreement.

(8) Other items as required by procedures, laws, ordinances, or prevailing circumstances.

3. Recommendation for Selection

After due consideration, the Staff Evaluation Committee shall evaluate the qualifications of all firms submitting proposals based on the criteria set forth in the RFP.

The RFP requirements may include, but shall not be limited to, the following:

a) Approach to the project and the management ability.
b) Ability of design and construction entity.
c) Financial capability of the design-build firm.
d) Successful experience with similar work and with design-build projects.
e) Availability and ability to meet schedules and budget requirements.
f) Past performance on Lee County or Port Authority projects.
g) Location where design work is to be performed.
h) Recent, current and projected workload.
i) Qualifications of the design-build firm, the design-build firm partners, members or key personnel.
j) Disadvantaged Business Enterprise (DBE) Participation.
B. Qualifications-Based Selections - If the Authority elects to use a qualifications-based selection process to award a design-build contract, during the selection of the design-build firm it will employ or retain a licensed design professional appropriate to the project to serve as the Authority's representative in the selection process. The qualifications-based selection process shall be conducted following the requirements of subsections (3), (4) and (5) of Section 287.055 Florida Statutes, as supplemented by the procedures set out in this Manual.

13.4 Evaluation Process

A. The Airports Special Management Committee, at its discretion, may request oral, written or visual presentations from; conduct interviews with; or conduct visits to the office, facilities or projects of the firms it selects from among those recommended by the Staff Evaluation Committee.

B. At the conclusion of its evaluations, the Airports Special Management Committee shall establish by consensus the three (3) firms most qualified and capable to perform the required services. If less than three (3) qualified firms are available, the committee will rank only those qualified. The Airports Special Management Committee shall report its recommendations and order of preference in the “green sheet” to the Board of Port Commissioners.

13.5 Action by the Board of Port Commissioners on the Recommendation(s) of the Airports Special Management Committee

A. The Board of Port Commissioners, after consideration of the recommendation(s) and order of preference reported by the Airports Special Management Committee, will take such action as they deem appropriate to approve, in order of preference, the firms [not to exceed three (3)] that they deem qualified and capable to perform the required services.

B. Subsequent to the approval of the ranking of firms by the Board of Port Commissioners, Purchasing shall notify all firms which submitted Letters of Qualifications of the ranking established by the Board of Port Commissioners action.

13.6 Evaluation of the Performance of the Design-Build Firm

The design-build firm to whom the design-build contract is awarded shall be responsible for creation of the project design based upon the criteria in the design criteria package.

The department shall maintain and administer professional services review procedures as approved by the Executive Director or authorized designee. These procedures shall be used to evaluate ongoing and past performances of firms providing design-build services to the Port Authority including their partners and members. The following procedures will be used:
A. The department and/or other departments involved in the contract shall evaluate the services performed by the firm.
   1. At least once during design at the 30% or 60% review.
   2. Upon completion of design.
   3. Every six months during construction, but not less than once.
   4. Upon final completion of construction.
   5. At other times to be determined in Port Authority’s discretion.

B. Criteria to be used in the evaluation process shall include, but not be limited to, design, quality of design and construction, ability to meet budget and schedule, constructability, operation and maintenance and overall performance of the project, and such other factors as may be determined to be applicable.

C. Results of the evaluation process will be used in competitive selection of design-build firms for subsequent work.

D. Design-build firms will have the right to review their evaluations and request clarifications as appropriate.

13.7 Emergency

A. When there exists a concern regarding the public health, safety or welfare, or a concern regarding other substantive loss to the Port Authority requiring emergency action for a proposed design-build project, the Board may declare an emergency and authorize the Staff Evaluation Committee to negotiate with the best qualified firm available at the time, at a compensation determined to be fair, competitive, and reasonable, subject to the requirements of the existing emergency. In making the determination, the Staff Evaluation Committee shall analyze the cost of the design-build services required, giving full consideration of the scope and complexity of the project and the requirements of the existing emergency.

B. The negotiated contract shall be presented to the Board for approval.

C. The provision of this subsection shall supersede any provisions to the contrary contained elsewhere herein.

13.8 Construction

The provisions of this Section shall be liberally construed in order to effectively carry out the purposes hereof in the interest of public health, welfare, and safety of the citizens and residents of Lee County, the interests of the Authority and the traveling public, and the State of Florida.
SECTION 14: PAYMENT DISPUTE RESOLUTION PROCEDURE

14.0  General

This procedure will apply to any payment dispute between the Port Authority and a contractor or vendor (both referred to as "vendors" in this section) over the Port Authority's nonpayment of a payment request or invoice when there is no specific dispute resolution procedure prescribed in the contract.

14.1  Dispute Resolution Procedure

A. The Port Authority shall notify the vendor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate the steps the vendor should take to correct the invoice and resubmit a Proper Invoice to the Port Authority. The vendor’s first step must be to contact the project sponsoring department to validate their payment request or invoice and receive a sign off from that entity indicating that the payment request or invoice in question is in keeping with the terms and conditions of their contract. Once the project sponsoring department’s sign off is obtained, the vendor should then resubmit the payment request or invoice as a "Corrected Invoice" to the project sponsoring department which will initiate the payment time line.

• "Project Sponsoring Department" for purposes of this Section is defined as the Port Authority department for whom the work is performed.

• "Proper Invoice" for purposes of this Section is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of the Port Authority.

B. Should a dispute result between the vendor and the Port Authority over payment of a payment request or invoice, the vendor should submit their dissatisfaction in writing to the project sponsoring department. The Deputy Executive Director overseeing the project sponsoring department shall designate a representative to act as a "Dispute Manager" to resolve the dispute at the departmental level.

C. The Dispute Manager shall investigate the dispute and document the steps taken to resolve the dispute in accord with Section 218.76, Florida Statutes. Such investigation shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by the Port Authority, and shall be finally determined by the Port Authority no more than sixty (60) days after the date on which the payment request or invoice was received.

D. The Dispute Manager will investigate and ascertain whether the work for which the payment request or invoice has been submitted was performed to the Port Authority’s satisfaction and duly accepted by the Proper Authority. For purposes of this Section "Proper Authority" is defined as the Port Authority representative who is designated as the approving authority for the work performed in the contract. The Dispute Manager must complete the investigation and furnish a written determination resolving the dispute within the sixty (60) day time frame for resolution of the dispute, per Section 218.76, Florida Statutes.
E. If the vendor is not satisfied with the Dispute Manager’s resolution of the dispute, the Executive Director or his or her designee shall be the final arbiter in resolving the issue. The Executive Director or his or her designee will issue their decision in writing within the sixty (60) day time frame for resolution of the dispute.

F. The Port Authority Dispute Resolution Procedure shall not be subject to Chapter 120 of the Florida Statutes. Per Section 218.76, Florida Statutes, this procedure is not intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.

G. Should the dispute be resolved in the Port Authority's favor, interest charges begin to accrue fifteen (15) days after the final decision made by the Port Authority. Should the dispute be resolved in the vendor's favor, the Port Authority shall pay interest as of the original date the payment was due.