



# **PROCUREMENT POLICY & PROCEDURES**

JUNE 2025

## **TABLE OF CONTENTS**

### **RESOLUTION:**

#### **ARTICLE 1 – GENERAL PROVISIONS:**

<b>A. Purposes &amp; Application</b>	
1-101 <a href="#"><u>Purpose</u></a>	A-1
1-102 <a href="#"><u>Application</u></a>	A-1
1-103 <a href="#"><u>Good Faith Provision</u></a>	A-1
1-104 <a href="#"><u>Equal Opportunity</u></a>	A-1
1-105 <a href="#"><u>Value Analysis</u></a>	A-1
1-106 <a href="#"><u>Specific Repealer</u></a>	A-2
1-107 <a href="#"><u>Effective Date</u></a>	A-2
1-108 <a href="#"><u>Annual Review</u></a>	A-2
<b>B. Definitions of Terms Used in Procedures</b>	
1-201 <a href="#"><u>Definitions</u></a>	A-2
<b>C. Compliance with State &amp; Federal Requirements</b>	
1-301 <a href="#"><u>Public Access to Procurement Information</u></a>	A-4
1-302 <a href="#"><u>Record Retention</u></a>	A-4
1-303 <a href="#"><u>Compliance with Federal Requirements</u></a>	A-4
1-304 <a href="#"><u>Standards of Conducts</u></a>	A-5
1-305 <a href="#"><u>Ethics in Procurement</u></a>	A-5

#### **ARTICLE 2 – PROCUREMENT ORGANIZATION:**

<b>A. Director of Procurement &amp; Risk Management</b>	
2-101 <a href="#"><u>Authority &amp; Duties</u></a>	A-6
2-102 <a href="#"><u>Delegation of Authority by the Director of Procurement &amp; Risk Management</u></a>	A-7
<b>B. Organization of Public Procurement</b>	
2-201 <a href="#"><u>Centralization of Procurement Authority</u></a>	A-7
2-202 <a href="#"><u>Exemptions</u></a>	A-8
<b>C. Procurement Regulations</b>	
2-301 <a href="#"><u>Procurement Operating Procedures</u></a>	A-8
2-302 <a href="#"><u>Purchase Order Approval Requirements</u></a>	A-8
<b>D. Purchasing Card Program</b>	
2-501 <a href="#"><u>Program Description</u></a>	A-9
<b>E. Information Technology Purchases</b>	
2-601 <a href="#"><u>Program Description</u></a>	A-10

## **ARTICLE 3 – SOURCE SELECTION AND CONTRACT FORMATION:**

<b>A. Definitions</b>	
3-101 <a href="#"><u>Definitions of Terms</u></a>	A-10
<b>B. Methods of Source Selection</b>	
3-201 <a href="#"><u>Methods of Source Selection</u></a>	A-11
3-202 <a href="#"><u>Competitive Sealed Bidding</u></a>	A-12
3-203 <a href="#"><u>Competitive Proposals</u></a>	A-14
3-204 <a href="#"><u>Qualifications Based Solicitations</u></a>	A-15
3-205 <a href="#"><u>Indefinite Delivery/Indefinite Quantity Contracts</u></a>	A-16
3-206 <a href="#"><u>Contracts for Construction</u></a>	A-17
3-207 <a href="#"><u>Small Purchases</u></a>	A-18
3-208 <a href="#"><u>Informal Quotes</u></a>	A-19
3-209 <a href="#"><u>Sole &amp; Single Source Procurement</u></a>	A-19
3-210 <a href="#"><u>Emergency Procurement</u></a>	A-19
3-211 <a href="#"><u>Cancellation of Bid Invitation or RFP's</u></a>	A-19
3-212 <a href="#"><u>Local Supplier Preference</u></a>	A-20
<b>C. Qualifications &amp; Duties</b>	
3-301 <a href="#"><u>Responsibility of Bidders &amp; Offerors</u></a>	A-20
3-302 <a href="#"><u>Prequalification of Suppliers</u></a>	A-20
<b>D. Change Order Procedures</b>	
3-401 <a href="#"><u>Approval Requirements</u></a>	A-21
<b>E. Types of Contracts</b>	
3-501 <a href="#"><u>Types of Contracts</u></a>	A-21
3-502 <a href="#"><u>Multi-Term Contracts</u></a>	A-21
3-503 <a href="#"><u>Signature Authority</u></a>	A-22

## **ARTICLE 4 – SPECIFICATIONS:**

<b>A. Definitions</b>	
4-101 <a href="#"><u>Definitions of Terms</u></a>	A-22
<b>B. Specifications</b>	
4-201 <a href="#"><u>Maximum Practicable Competition</u></a>	A-23

## **ARTICLE 5 – SUPPLY MANAGEMENT:**

5-101 <a href="#"><u>Disposition of Surplus Supplies</u></a>	A-23
5-102 <a href="#"><u>Competitive Sealed Bidding</u></a>	A-23
5-103 <a href="#"><u>Auctions</u></a>	A-23
5-104 <a href="#"><u>Trade-in Sales</u></a>	A-23

**ARTICLE 6 – LEGAL & CONTRACTUAL REMEDIES:**

6-101	<a href="#"><u>Bid Protest Procedures &amp; Removal from Bidders List</u></a>	A-23
6-102	<a href="#"><u>Authority to Debar or Suspend</u></a>	A-24
6-103	<a href="#"><u>Authority to Resolve Contract Breach</u></a>	A-25
6-104	<a href="#"><u>Solicitations or Awards in Violation of Law</u></a>	A-26

**ARTICLE 7 – INTERGOVERNMENTAL REGULATIONS:**

**A. Definitions**

7-101	<a href="#"><u>Definitions of Terms</u></a>	A-27
-------	---	------

**B. Cooperative Procurement**

7-201	<a href="#"><u>Cooperative Procurement Authorized</u></a>	A-27
7-202	<a href="#"><u>Sale, Acquisition or Use of Supplies</u></a>	A-27
7-203	<a href="#"><u>Cooperative Use of Supplies or Services</u></a>	A-27
7-204	<a href="#"><u>Joint Use Facilities</u></a>	A-27
7-205	<a href="#"><u>Use of State Contracts</u></a>	A-27

**ARTICLE 8 – SMALL AND MINORITY BUSINESS UTILIZATION PLAN:**

**A. Definitions**

8-101	<a href="#"><u>Definitions of Terms</u></a>	A-28
-------	---	------

**B. Utilization Plan**

8-201	<a href="#"><u>Utilization Plan</u></a>	A-28
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## **EXHIBIT A**

### **PROCUREMENT POLICY AND PROCEDURES OF THE BEAUFORT-JASPER WATER AND SEWER AUTHORITY**

#### **ARTICLE 1 - GENERAL PROVISIONS**

##### **Part A - Purposes and Application**

##### **1-101 Purpose.**

The purpose of these Procedures is to provide for the fair and equitable treatment of all persons involved in the procurement of goods and services by Beaufort-Jasper Water & Sewer Authority (the “Authority”), to establish and enforce ethical standards for employee conduct that precludes any actual or perceived impropriety, and to provide procedures for the Authority to achieve the best value in all purchasing transactions.

##### **1-102 Application.**

Unless otherwise specified herein, these Procedures apply to contracts for the procurement of supplies, services, and construction executed by the Authority after the effective date of these Procedures. It shall apply to every expenditure of public funds irrespective of their source. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with applicable State and Federal laws and regulations. Nothing in these Procedures shall prevent any Authority department or agency from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

##### **1-103 Good Faith Provision**

All parties involved in the negotiation, performance, or administration of the Authority’s contracts shall act in good faith. Good faith means honesty in fact in the conduct or transaction concerned. Unless otherwise specified, all contracts shall be governed by the South Carolina Uniform Commercial Code, Title 36 of the Code of Laws of South Carolina, 1976, as amended.

##### **1-104 Equal Opportunity**

The policies of the Authority prohibit discrimination against any person or business in pursuit of business opportunities on the basis of race, color, sex, religion, or national origin and to conduct its contracting and procurement programs so as to prevent such discrimination.

##### **1-105 Value Analysis**

A significant portion of the Authority’s budget is committed each year to various purchase contracts such as raw materials, equipment, equipment components, general supplies, construction, and professional and non-professional services. It is essential for the Authority to realize a maximum return on investment, and therefore, an objective of the procurement process is value analysis. Value analysis is the organized and systematic study of every element of a proposal to evaluate the cost versus the benefit to the Authority in terms of return on investment, ensuring in all cases that the best value offer is obtained. The function and value of any material, product, or service is established by comparison to other available alternatives, materials, products, or services that will provide the overall best value to the Authority.

### **1-106 Specific Repealer.**

These Procedures repeal all previously issued Resolutions, Rules or Regulations pertaining to public procurement for the Authority, including without limitation the Authority's Purchasing Policy, as revised and amended.

### **1-107 Effective Date.**

These Procedures shall become effective at 12:00 A.M. on \_\_\_\_\_, 2025.

### **1-108 Annual Review.**

These Procedures shall be reviewed annually no later than September 1<sup>st</sup> of each year by the Director of Procurement & Risk Management to ensure they continue to meet the needs of the Authority while complying with applicable law and policies, and represent procurement best practices.

## **Part B - Definitions of Terms Used in These Procedures**

### **1-201 Definitions.**

(1) Board. The Board of Directors of Beaufort-Jasper Water and Sewer Authority. Board members may herein also be referred to as officials of the Authority.

(2) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(3) Capital Improvement Projects (CIPs). Construction and equipment projects supported in the Authority's Capital Improvement Program budget.

(4) Change Order (unilateral). A written order signed and unilaterally issued by the Director of Procurement & Risk Manager, directing the contractor to make changes without the consent of the contractor. Unilateral Change Orders shall only be executable if allowed per the "Changes" clause of the contract.

(5) Change Order (bilateral). The formal document effecting a bilateral contract modification that alters the specification, delivery point, rate of delivery, period of performance, price, quantity, scope of work, or other provision of any contract accomplished by mutual agreement of the parties to the contract.

(6) Construction. The process of building, altering, repairing, improving, or demolishing any Authority owned structure or building, or other improvements of any kind to any Authority real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings or real property.

(7) Contract. A legal obligation, consisting of a written agreement or purchase order, which results from the parties' agreement for the procurement of supplies, services, or construction.

(8) Contract Documents. All items which define the scope of the project including, but not limited to, plans and specifications, solicitations for bids, instructions to bidders, bid proposals, proposed contracts, proposed bond form, general conditions, special conditions, and technical specifications.

(9) Contract Modification. Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

- (10) Contractor. Any person or company (VA) having a contract with the Authority.
- (11) Data. Recorded information, regardless of form or characteristic.
- (12) Days. Days shall mean calendar days.
- (13) Debarment. The exclusion of any person from consideration for award of Contracts for a period not to exceed three (3) years after notice and an opportunity to be heard on the part of such person, as provided for in Section 6-102 hereof.
- (14) Designee. A duly authorized representative of a person holding a superior position.
- (15) Director of Procurement & Risk Management. The person designated as the head of the central procurement office of the Authority.
- (16) Employee. An individual receiving a wage from this Authority.
- (17) Financial Interest. All direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is ten (10) percent or more.
- (18) Governmental Body. Any department or agency of the Authority.
- (19) Grant. The furnishing of assistance, whether financial or otherwise, to any person to support a program authorized by law. A grant does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or construction; a contract resulting from such an award is not a grant but a procurement contract.
- (20) Family Member. Parent, parent-in-law, sibling, sibling-in-law, spouse, child, stepchild, grandparent or grandchild.
- (21) May. Denotes the permissive.
- (22) Person. Any corporate organization (including without limitation corporations, limited partnerships, and limited liability companies), business, individual, union, committee, club, other organization, or group of individuals.
- (23) Procurement. Unless otherwise provided for herein, Procurement consists of buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. Procurement also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (24) Procurement Officer. Any person reporting to and duly authorized by the Director of Procurement & Risk Management to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.
- (25) Proponent. A person who puts forward a proposition or proposal.
- (26) Respondent: a person, organization, business, or other entity that submits a proposal in response to an RFP.
- (27) Service. The furnishing of labor, time, or effort by a Contractor, not involving the

delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

(28) Shall. Denotes the imperative.

(29) Subcontractor. Any person having a contract to perform work or render service to a prime contractor as a part of the prime contractor's agreement with a governmental body.

(30) Supplies. All property including but not limited to equipment, materials, printing, insurance, information technology equipment and software packages, and leases of real property, excluding land or a permanent interest in land.

(31) Suspension. The exclusion of any person from consideration for award of Contracts for a period not to exceed three (3) months based upon a determination by the Director of Procurement & Risk Management as provided for in Section 6-102 hereof.

(32) Value Analysis. The mode of analysis set forth in Section 1-105 of these Procedures.

## **Part C - Compliance with State and Federal Requirements**

### **1-301 Public Access to Procurement Information.**

Procurement information shall be a public record to the extent required by Chapter 3 of Title 30, South Carolina Code of Laws, 1976, as amended (the "Freedom of Information Act" or "FOIA"), with the exception that commercial or financial information obtained in response to a 'Request for Bids' or a 'Request for Proposals' which is deemed privileged and confidential by the Authority shall not be disclosed. Bidders or offerors must clearly mark as "CONFIDENTIAL" each part of their bid or proposal which they consider to be proprietary information that could be exempt from disclosure under Section 30-4-40 of the Freedom of Information Act. If any part of such response is designated as confidential, there must be attached to that part an explanation of how this information fits within one or more categories of matters exempt from disclosure set forth in Section 30-4-40 of the Freedom of Information Act. The Authority reserves the right to determine whether such information should be exempt from disclosure. No action may be brought against the Authority or its agents arising out of or in relation to such determination. Under FOIA, the Authority is not required to but may release documents of, or incidental to, proposed contractual arrangements prior to execution of a Contract.

### **1-302 Record Retention.**

All procurement records of the Authority shall be retained for a minimum period of three (3) years after cancellation or expiration of the contract or purchase order closing, after which they should be destroyed. If any litigation, claim, audit, or other action involving Authority records is started before the expiration of the 3-year period, those records shall be retained for three (3) years after the completion of the action and resolution of all associated issues.

### **1-303 Compliance with Federal Requirements.**

Where a Procurement involves the expenditure of federal assistance or contract funds, the Director of Procurement & Risk Management shall comply with such federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in these Procedures.



### **1-304 Standards of Conduct.**

In all actions involving Procurement, the Authority shall comply with the provisions of Chapter 13 of Title 8 (State Ethics Act), South Carolina Code of Laws, 1976, as amended.

### **1-305 Ethics in Procurement**

(1) Employee Conflict of Interest. It shall be unethical for any Authority employee or official to transact any business or participate directly or indirectly in a procurement contract when it is known that:

- (a) the employee, official or any family member thereof has a substantial interest or financial interest pertaining to the procurement contract, unless the transaction is specifically exempted by law;
- (b) any other person, business, or organization with whom the employee, official or any family member thereof is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

An employee, official or any family member thereof who holds a substantial interest or financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that substantial interest or financial interest.

In accordance with the SC Ethic's Act, no public official, public member, or public employee may knowingly use his/her official office, membership or employment to obtain an economic interest for himself/herself, a family member, an individual with whom he/she is associated, or a business with which he/she is associated. No public official, public member, or public employee may make, participate in making, or in any way attempt to use his/her office, membership or employment to influence a governmental decision in which he/she, a family member, an individual with whom he/she is associated, or a business with which he/she is associated has an economic interest.

A public official, public member, or public employee who, in the discharge of his/her official responsibilities, is required to take action or make a decision which affects an economic interest of himself/herself, a family member, an individual with whom he/she is associated or a business with which he/she is associated shall make a written statement describing the matter requiring action or decision and the nature of his/her potential conflict of interest with respect to the action or decision. If a public employee, he/she shall furnish a copy of the statement to his/her superior or if no immediate supervisor, he/she shall take the action prescribed by the State Ethic's Commission. If he/she is a public official, he/she shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or political subdivision thereof, on which he/she serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

Any willful violation of this Section shall constitute malfeasance in office, and any employee or official of the Authority who violates this Section of the policy shall forfeit their office or position. A violation of this Section with the knowledge, express or implied, of the person(s) or corporation contracting with the Authority shall render the offending contract/procurement voidable by the Authority.

(2) Gratuities, Rebates, and Kickbacks.

- (a) Gratuities. It shall be unethical for any person to offer, give, or agree to give any

Authority employee or official or for any Authority employee or official to offer, solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or contract or subcontract, or to any solicitation or proposal therefor.

- (b) Kickbacks and rebates. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contract or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.

- (3) Courtesies and Cash. Policy as defined in BJWSA's Board Handbook and BJWSA's Employee Handbook:

Consistent with guidelines established in the South Carolina State Ethics Act, employees, officials or any immediate family member of said employee or official must not solicit, demand, accept, or agree to accept, directly or indirectly, any cash or gift card or anything else of greater than nominal value, or special favors from any organization, firm or individual doing or seeking to do business with BJWSA; or under any circumstances which might be construed as influencing the performance of official duties.

For the purposes of this policy, a "Gift" means anything greater than \$50.00, including entertainment, travel, and lodging given or paid to a public official, public member, or public employee to the extent that consideration of equal or greater value is not received. A gift includes a rebate or discount on the price of anything greater than the nominal value of \$50.00 unless it is made in the ordinary course of business without regard to that person's status.

To eliminate the appearance of coercion, intimidation, or pressure, employees and officials must not make personal commercial solicitations or sales to BJWSA subordinates.

## **ARTICLE 2 - PROCUREMENT ORGANIZATION**

### **Part A – Director of Procurement & Risk Management**

#### **2-101 Authority and Duties.**

- (1) Director of Procurement & Risk Management. The Director of Procurement & Risk Management shall be the Authority's principal public procurement official and shall be responsible for procurement of all supplies, services, construction, and professional service products in accordance with these procedures and all applicable laws and regulations. The Director of Procurement & Risk Management reports to the Deputy General Manager, Finance & Administration. When deemed appropriate, the Director of Procurement & Risk Management may authorize other employees of the Authority as the Procurement Officer for a specific procurement.

(2) Duties. The duties of the Director of Procurement & Risk Management include, but are not limited to:

- (a) procuring or supervising the procurement of all supplies, services, construction, and professional and consultant service products;
- (b) acting to procure the best value offer for the Authority by keeping informed of current developments in the field of purchasing, prices, market conditions, and new products;
- (c) selling, trading, or otherwise disposing of surplus supplies belonging to the Authority and depositing net proceeds in the Authority's general fund and coordinating all financial data with Accounting;
- (d) establishing and maintaining programs for supplies and services
- (e) consult with Authority department managers in preparing and issuing specifications for supplies, services and construction required by the Authority;
- (f) prescribing and maintaining such forms, internal controls, documentation, and systems needed to operate the purchasing program and ensure maximum efficiency in budgeting and accounting for encumbrances.
- (g) preparing, adopting, and properly maintaining a listing of prequalified vendors who provide the best value to the Authority; and
- (h) any other duties assigned by the Deputy General Manager, Finance & Administration, that are within the intent and scope of this policy.

- (3) Operational Procedures. Consistent with these Procedures, the Director of Procurement & Risk Management may adopt operational procedures relating to the execution of their duties.

## **2-102 Delegation of Authority by the Director of Procurement & Risk Management.**

The Director of Procurement & Risk Management may delegate authority to one or more designee provided that each such designee is an employee of the Authority. Designees other than a Procurement Officer as defined in section 1-201 shall be approved in advance in writing by the Deputy General Manager, Finance & Administration.

## **Part B - Organization of Public Procurement**

### **2-201 Centralization of Procurement Authority.**

Except as otherwise provided in this Part B, the Director of Procurement & Risk Management or their designee, shall solicit all bids or proposals for the procurement of supplies, services, construction, professional or consultant services, products, and disposition of personal property on behalf of the Authority. The Authority shall not be legally bound by any purchase order or Contract made contrary to the provisions of this policy.

### **2-202 Exemptions.**

- (1) These Procedures do not apply to contracts for the acquisition or sale or other disposition of land or other real property. Such contracts may be negotiated or entered into as directed by the Authority from time to time.
- (2) The following Supplies and Services need not be procured through the Office of the Director of Procurement & Risk Management, but shall nevertheless be procured by the appropriate department subject to the requirements of these Procedures:
  - (a) books, periodicals
  - (b) postage stamps and postal fees
  - (c) financial services, such as banking and investments, which shall be governed by the Authority's Cash and Investment Management Policy
  - (d) department specific training and educational programs and materials
  - (e) department association memberships
  - (f) employee travel
  - (g) power/utility payments
  - (h) franchise fees

### **Part C - Procurement Regulations**

#### **2-301 Procurement Operating Procedures**

The Director of Procurement & Risk Management may promulgate operating procedures pertaining to procurement by the Authority; provided that all such operating procedures shall be approved by the Deputy General Manager, Finance & Administration before they are applied. No operating procedure shall change any commitment, right, or obligation of the authority or of a Contractor under a Contract in existence on the effective date of such operating procedures. All such operating procedures shall be consistent with these Procedures.

#### **2-302 Purchase Order Approval Requirements**

Purchase Orders for all goods and services, including all Construction Services unless excluded elsewhere in this policy, must be approved at the following requisition levels prior to execution by the Director of Procurement & Risk Management:

- (a) Under \$5,000 must be approved by Supervisor(s);
- (b) Over \$5,000 must also be approved by Manager(s)
- (c) Over \$20,000 must also be approved by Director(s)
- (d) Over \$50,000 must also be approved by Chief(s)
- (e) Over \$75,000 must also be approved by the Deputy General Managers
- (f) Over \$100,000 must also be approved by the General Manager
- (g) Over \$150,000 must be approved by the Board

Purchase Orders over one hundred fifty thousand dollars (\$150,000) for CIPs must be submitted to the

Capital Projects Committee of the Board for review. Purchase Orders over one hundred fifty thousand dollars (\$150,000) for O&M accounts must be submitted to the Finance Committee of the Board for review. If the respective Committees approve the expenditure, then the respective purchase must be brought to the full board for approval prior to the purchase.

Exceptions:

- (a) Blanket purchase orders for chemicals may be issued to chemical suppliers for the amounts approved by the Board in the Operating Budget.
- (b) Water meters, transponders and meter boxes
- (c) Replacement parts for existing system equipment
- (d) Annual maintenance fees (Examples: SCADA. Badger Meters)
- (e) Annual software maintenance fees and licenses (Examples: Tyler, Microsoft)
- (f) Insurance premiums

All budgeted line items listed in the O&M Capital Improvements Program that are over the Board Approval limit of one hundred fifty thousand dollars (\$150,000) are inherently approved when the annual O&M budget is approved by the Board. The acquisition of these items will follow the appropriate procurement procedures. Therefore, these items will not be subject to additional approval by the Board when the items are procured during the next fiscal year. These items will be listed in the Finance Committee packet for awareness during the month in which they are procured.

Part D –

#### **Purchasing Card Program (PCard)**

##### **2-501 Program Description**

(1) The Director of Procurement & Risk Management and Accounting Manager are responsible for overseeing the Purchasing Card Program. The purpose of a purchasing card (also known as a procurement card or PCard) program is to provide an efficient, cost-effective method of purchasing and paying for small dollar purchases. This type of program is used as an alternative to the traditional purchasing process and can result in a significant reduction in the volume of purchase orders, invoices, and checks processed. PCard can be used whenever a purchase order or check request would have been processed and with any vendor that accepts credit cards. The PCard program eliminates most of the paperwork associated with Authority purchases that are less than \$5,000. The PCard shall not be utilized to circumvent the Procurement process and shall be used to obtain the best value to the Authority in all circumstances.

(2) The PCard should be used for purchases relating only to Authority business and use of the card for personal purposes is strictly prohibited. PCards are not permitted for use for any CIP purchase. Cardholders assume responsibility for the protection and proper use of the Purchasing Card. Accounting is responsible for assigning the cards and monitoring usage. Accounting may suspend PCard privileges when policies and procedures are not followed including when the PCard is used for prohibited purchases or personal use. The Accounting Manager is responsible for ensuring that appropriate accounting procedures are followed, including internal controls over expenditures. All PCard holders must follow the guidelines for usage as defined in BJWSA's Corporate Credit Card Procedures.

## **Part E – Information Technology Purchases**

### **2-601 Program Description**

(1) Purchases of all computing and data processing equipment, software or services must be approved for use and connectivity shall be procured through the Information Technology Department (IT). IT is to ensure that the procurement of all computing and data processing equipment, software and services follow established Authority policies and guidelines, that due diligence is performed to ensure compatibility with existing systems and policies, that the purchase aligns with all applicable cybersecurity controls of the Authority and that the approval of the Director of Information Technology or Information Technology Manager is obtained prior to a purchase. This policy applies to all technology resources and related services owned, used or operated by the Authority, regardless of the source of funding, location or intended purpose. These resources include but are not limited to: computers and servers of any form factor; mobile and cellular devices, software and information systems; technology services, information technology related consulting and maintenance contracts, peripheral equipment (e.g. printers, scanners, keyboards, speakers, etc.), network devices, television, audiovisual, surveillance and projection equipment. Additionally, all departmental procurement plans containing computing and data processing equipment, software or services shall seek IT approval, even if the primary subject of procurement is not technology related. Non-budgeted purchases may require additional approval beyond the IT department depending on the source and amount of funding.

## **ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION**

### **Part A - Definitions**

#### **3-101 Definitions of Terms Used in this Article.**

- (1) Cost-Reimbursement Contract. A contract under which a Contractor is reimbursed for costs which are allowable and allocable in accordance with the Contract terms and the provisions of these Procedures, and a fee, if any.
- (2) Delivery Order. An order issued by the Authority for a professional to perform work under an Indefinite Delivery/Indefinite Quantity Contract. (IDIQ)
- (3) Established Catalogue Price. The price included in a catalogue, price list, schedule, or other form that:
  - (a) is regularly maintained by a manufacturer or contractor;
  - (b) is either published or otherwise available for inspection by customers; and
  - (c) states prices at which sales are currently or were last made to a significant number of any category of buyer or buyers constituting the general buying public for the supplies or services involved.
- (4) Indefinite Delivery/Indefinite Quantity Contract. (IDIQ) A Professional Services contract that does not procure or specify a defined quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of Delivery Orders for the performance of work during the period of the contract. The Authority procures Indefinite Delivery/Indefinite Quantity Contracts in the same manner as any professional services contract.
- (5) Invitation for Bids. (IFB) is a procurement method used to solicit competitive sealed

bid responses, sometimes called a formal bid, when price is the basis for award.

(6) Purchase Description. The words used in a solicitation to describe the supplies, services, or construction to be purchased, including specifications attached to, or made a part of, the solicitation.

(7) Request for Proposals. (RFP): The procurement method used to solicit proposals from suppliers for goods and services where the selection is based on evaluation of criteria and shall include price unless it is determined to be in the Authority's best interests to exclude price.

(8) Request for Qualifications. (RFQ): The procurement method used to solicit and select certain professional services where the selection is based solely on evaluation of an offeror's qualifications. Price/fees shall not be part of the evaluation.

(9) Responsible Bidder or Offeror. A business entity or individual who has the financial and technical capacity to meet the requirements of the solicitation and perform the subsequent contract.

(10) Responsive Bidder or Offeror. A contractor, business entity, or individual who has submitted a bid or proposal that fully conforms in all material respects to the solicitation's requirements in form and substance.

(11) Sole Source Procurement. A purchase where there is only one source (one supplier) that could possibly supply the required product or service.

(12) Single Source Procurement. A purchase where there is more than one source that could possibly supply the required product or service, but selecting a particular supplier is in the Authority's best interests based on the supplier's unique qualifications, abilities or knowledge.

## **Part B - Methods of Source Selection**

### **3-201 Methods of Source Selection.**

Unless otherwise required by law, all Authority Contracts shall be awarded by competitive sealed bidding, pursuant to Section 3-202 (Competitive Sealed Bidding), except as provided in:

- (a) Section 3-203 (Competitive Sealed Proposals);
- (b) Section 3-204 (Qualifications Based Solicitations)
- (c) Section 3-205 (Indefinite Delivery/Indefinite Quantity Contracts);
- (d) Section 3-207 (Small Purchases);
- (e) Section 3-208 (Informal Quotes);
- (f) Section 3-209 (Sole Source & Single Source Procurement);
- (g) Section 3-210 (Emergency Procurement);
- (h) Section 3-302 (Pre-qualification of Professional Service Providers and Contractors).

### **3-202 Competitive Sealed Bidding.**

(1) Conditions for Use. Competitive sealed bids may be solicited for any Procurement at the option of, and in the sole discretion of, the Director of Procurement & Risk Management. Competitive sealed bids shall be solicited for any Procurement expected to exceed fifty thousand dollars (\$50,000), unless otherwise justified in writing by the requesting department and approved by the Director of Procurement & Risk Management. Exception: Sole & Single Source Procurements – Reference Section 3-208

(2) Invitation for Bids (IFB). An Invitation for Bids shall be issued with a purchase description and all contractual terms and conditions applicable to the Procurement when price is the sole criterion for contract award. All IFB specifications shall be drafted to assure a cost-effective procurement, encourage competition, and not be unduly restrictive. The use of a brand name or equal specifications may be used only when the Director of Procurement & Risk Management determines that it is in the Authority's best interests. IFBs must be posted to the Authority's website <https://bjwsa.bonfirehub.com/portal> and the South Carolina Business Opportunities website <https://scbo.sc.gov/online-edition> to promote maximum competition, and shall be advertised and publicly posted for no less than fourteen (14) calendar days prior to the submission deadline for Offeror bids. The open period for any IFB shall be determined by Director of Procurement & Risk Management in consultation with the requesting department and shall take into consideration the nature and complexity of the solicitation and provide a reasonable amount of time for the vendor community to prepare a proper bid and submit it electronically by the stated deadline.

(3) Submission of Bids and Bid Opening. Sealed bids shall be submitted to the Authority's website <https://bjwsa.bonfirehub.com/portal> electronically as detailed in the IFB. Bids shall be opened publicly via recorded virtual conference in the presence of one or more witnesses at the date and time designated in the IFB. 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 announced, recorded, and made available for public inspection on the Authority's website <https://bjwsa.bonfirehub.com/portal> as soon practical and typically within twenty-four (24) hours of the bid opening. Bidder documents submitted in response to an IFB may be obtained via a public records request in accordance with section 1-301 regarding Public Access to Procurement Information.

(4) Bid Acceptance; Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in these Procedures. Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the IFB.

Discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the invitation for bids. All bids, in the Authority's sole judgment, needing clarification shall be accorded such an opportunity. Clarification of any bidder's bid must be documented in writing by the Director of Procurement & Risk Management and shall become part of the bid files.

In the case of tie bids, the Contract shall be awarded to the bidder maintaining a place of business in either Beaufort or Jasper County. If more than one tie bidder maintains a place of business in either Beaufort or Jasper County, then the Contract shall be awarded by the public drawing of lots by such tie bidders. If none of the tie bidders maintains a place of business in either Beaufort or Jasper County, then the Contract shall be awarded by the public drawing of lots by tie bidders.

(5) Correction or Withdrawal of Bids; Cancellation of Awards. Corrections or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based



on such bid mistakes are permitted at the sole discretion of the Director of Procurement & Risk Management. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the 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 a written determination made by the Director of Procurement & Risk Management.

(6) Award; Rejection. The Contract shall be awarded with reasonable promptness by written notice to the lowest Responsive and Responsible Bidder whose bid meets the requirements and criteria set forth in the IFB. If a bidder who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Director of Procurement & Risk Management. The unreasonable failure of the bidder 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.

In determining the lowest Responsive and Responsible Bidder, in addition to price, the Authority may consider factors including but not limited to: (a) the ability, capacity and skill of the bidder to perform the contract or provide services required; (b) whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference; (c) the character, integrity, reputation, judgment, experience and efficiency of the bidder; (d) the quality of performance of previous contracts or services; (e) the previous and existing compliance by the bidder with the laws and ordinances relating to the contract or services; (f) the sufficiency of the financial resources and services; (g) the quality, availability and adaptability of the supplies or contractual services to the particular use required; (h) the ability of the bidder to provide such future assistance as may be reasonably contemplated by the subject matter of the contract; (i) the number and scope of conditions the bidder has attached to their bid.

In the event all bids for a construction project exceed available funds as approved by the Board of Directors, and the low bid from a Responsible and Responsive Bidder does not exceed such funds by more than five percent (5%), the Director of Procurement & Risk Management is authorized in situations where time or economic considerations preclude re-solicitation of work of a reduced scope to negotiate an adjustment in the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

The Director of Procurement & Risk Management may, in their discretion and only as provided for in the IFB, waive any minor technicalities and informalities with respect to any bid and reject any or all bids. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids having no material effect on total bid price, quality, quantity, delivery of the supplies or performance of the contract, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to, any of the submitting bidders.

The Director of Procurement & Risk Management may, in their discretion, require the posting of a bond, including without limitation a performance bond, by any successful bidder; provided, however, that the requirement of any bond shall be stated in the IFB.

(7) Multi-Step Sealed Bidding. When it is considered impractical initially to prepare a purchase description to support an award based on price, an IFB may be issued requesting the submission of unpriced offers to be followed by an IFB limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

### **3-203 Competitive Proposals.**

(1) Conditions for Use. Competitive proposals shall be solicited for any Procurement estimated to exceed fifty thousand dollars (\$50,000) in Contract price with a minimum of three (3) potential

proposers or when otherwise justified in writing by the requesting department and approved by the Director of Procurement & Risk Management. Exception: Sole & Single Source Procurements – Reference Section 3-208

(2) Request for Proposals (RFP). Proposals shall be solicited through a Request for Proposals when contract award is not based solely on price. RFPs shall be posted to the Authority's website <https://bjwsa.bonfirehub.com/portal> and the South Carolina Business Opportunities website <https://scbo.sc.gov/online-edition> to promote maximum competition, and shall be advertised and publicly posted for no less than twenty-one (21) calendar days prior to the submission deadline for Offeror proposals. The open period for any RFP shall be determined by Director of Procurement & Risk Management in consultation with the requesting department and shall take into consideration the nature and complexity of the solicitation and provide reasonable amount of time for the vendor community to prepare a thorough proposal and submit it electronically by the stated deadline.

(3) Submission of Proposals and Proposal Opening. Proposals shall be submitted to the Authority's website electronically as detailed in the RFP. Proposals shall be opened publicly via recorded virtual conference in the presence of one or more witnesses at the date and time designated in the RFP. Only the names of the respondents will be disclosed during the opening. A listing of respondent names will be made available for public inspection on the Authority's website as soon practical and typically within twenty-four (24) hours of the proposal opening. Proposal documents submitted in response to an RFP may be obtained via a public records request in accordance with section 1-301 regarding Public Access to Procurement Information.

(4) Discussion with Responsible Offerors and Revisions to Proposals. As provided in the RFP, discussions may be conducted with Responsible Offerors who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals from competing offerors.

(5) Evaluation Criteria (VA). The RFP shall state the evaluation criteria in relative order of importance and may at the discretion of the Authority indicate the percentage weight for each factor. Offeror pricing or fee schedules shall not be disclosed to the evaluation committee until evaluation of the non-cost criteria is complete.

(6) Selection Committees. The Authority shall establish selection committees as necessary for the evaluation of proposals which must be composed of those individuals the Director of Procurement & Risk Management determines to be qualified to make an informed decision. The Director of Procurement & Risk Management or their designee shall sit as a member on these selection committees for the purpose of coordinating and accounting for the committee's work. The Director of Procurement & Risk Management may invite a subject matter expert to sit as a nonvoting member of a selection committee for significant or highly technical projects.

(7) Award. Award shall be made to the Responsible Offeror whose proposal is determined in writing by the selection committee to be most advantageous to the Authority taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation. The Contract file shall contain the basis on which the award is made. Contents of competing offerors shall not be disclosed during the process of negotiation with the awarded contractor(s).

The Director of Procurement & Risk Management may, in their discretion, require the posting of a

bond, including without limitation a performance bond, by any successful bidder; provided, however, that the requirement of any bond shall be stated in the RFP.

### **3-204 Qualifications Based Solicitations**

(1) Conditions for Use. Qualifications shall be solicited for any Procurement for Professional Based Services to include those for construction administration services estimated to exceed fifty thousand dollars (\$50,000) in Contract price unless otherwise justified in writing by the department requested and approved by the Director of Procurement & Risk Management. The RFQ solicitation method is to be used to obtain certain professional services such as architects, engineers, surveyors, or other similar professional services when determined to be the method most practical and advantageous to the Authority. Such professional services will often require special licensing or certifications.

(2) Request for Qualifications (RFQ). Qualifications shall be solicited through a Request for Qualifications. RFQs must be posted to the Authority's website <https://bjwsa.bonfirehub.com/portal> and the South Carolina Business Opportunities website <https://scbo.sc.gov/online-edition> to promote maximum competition and shall be advertised and publicly posted for no less than twenty-one (21) calendar days prior to the deadline for Offeror submittals. The open period for any RFQ shall be determined by Director of Procurement & Risk Management in consultation with the requesting department and shall take into consideration the nature and complexity of the solicitation and provide reasonable amount of time for the vendor community to prepare a thorough submittal and submit it electronically by the stated deadline.

(3) Submission of Qualifications and Qualifications Opening. Qualifications shall be submitted to the Authority's website electronically as detailed in the RFQ. Submittals shall be opened publicly via recorded virtual conference in the presence of one or more witnesses at the date and time designated in the RFQ. Only the names of the respondents will be disclosed during the opening. A listing of respondent names will be made available for public inspection on the Authority's website as soon practical and typically within twenty-four (24) hours of the opening of submittals. Offeror Submittal documents in response to an RFQ may be obtained via a public records request in accordance with section 1-301 regarding Public Access to Procurement Information.

(4) Discussion with Responsible Offerors. As provided in the RFQ, discussions may be conducted with Responsible Offerors who are deemed to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. In conducting discussions, there shall be no disclosure of any information derived from competing offerors.

(5) Evaluation Criteria. The RFQ shall state the evaluation criteria in relative order of importance and may at the discretion of the Authority indicate the percentage weight for each factor. The evaluation criteria shall **NOT** include price/fees; however, pricing or fee schedules shall be requested to be submitted separately from the qualifications to serve as the starting point for contract negotiations after contract award. Offeror pricing or fee schedules shall not be disclosed to the evaluation committee until the evaluation process is complete. Negotiated fee schedules shall become part of the contract, or at a minimum, be maintained on file with each contract, and shall only be allowed one adjustment annually as mutually agreed upon.

(6) Selection Committees. The Authority shall establish selection committees as necessary for Qualification Based Solicitations which must be composed of those individuals the Director of Procurement & Risk Management determines to be qualified to make an informed decision as to the most competent and qualified firm(s) to provide the desired services. The Director of Procurement & Risk Management or their designee shall sit as a member on these selection committees for the purpose of coordinating and accounting for the committee's work. The Director of Procurement & Risk Management may

invite a subject matter expert to sit as a nonvoting member of a selection committee for significant or highly technical projects.

(7) Award. Award shall be made to the Responsible Offeror who is determined in writing by the selection committee to be most qualified based on the evaluation criteria stated in the RFQ. No other factors or criteria shall be used in the evaluation. The Contract file shall contain the basis on which the award is made. For those contractors that exceed the Board approval limitation of \$150,000.00, the written memo seeking said approval shall contain the criteria considered and rational behind the selection and shall include a statement that the pricing is deemed to be fair and reasonable based on the scope of services and professional standards. Contents of competing submittals shall not be disclosed during the process of negotiation with the awarded contractor(s).

### **3-205 Indefinite Delivery/Indefinite Quantity Contracts. (IDIQ)**

With the approval of the Director of Procurement & Risk Management, and in accordance with any applicable regulations, the Authority may establish contracts providing for an indefinite quantity of specified supplies or professional services, to be furnished during a fixed period, and that provide for the issuance of orders for delivery or performance of individual requirements during the period of the contract. At any given time, the Authority may enter one or more IDIQs in accordance with the provisions contained in this section for services which include but are not limited to: architectural services, engineering services, land-surveying services, land planning and design services, and construction administration services.

(1) General Applicability. IDIQ contracts may be awarded on an as-needed basis for certain professional services including but not limited to architectural services, engineering services, land-surveying services, land planning and design services, and construction administration services (See SC Code Ann. Section 6-37-50(26)). The maximum IDIQ contract term, including extensions, is five (5) years.

The Authority shall annually re-solicit for all services for which it has existing IDIQ contracts, with the goal of awarding additional contracts to qualified firms. The additional firms shall be added to the Authority's pre-qualified list(s) for the applicable services. Firms having existing IDIQ contracts with the Authority shall remain on the active pre-qualified list(s) and shall not be required to resubmit annually unless removed for cause.

The Authority retains the discretionary right to issue separate solicitations for individual projects when warranted, based on the scope of work and level of technical competence and experience needed for the project.

(2) Advertisement. Refer to 3-204(2) Request for Qualifications.

(3) General Requirements for Solicitation of an Indefinite Delivery/Indefinite Quantity Contract. The solicitation for an IDIQ contract shall include the following:

- (a) Period of the contract
- (b) A statement that the awarding of contract does not grant the contractor any exclusive rights, nor does it guarantee the contractor any work under the contract
- (c) Statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract in a manner that will enable a prospective offeror to decide whether to submit an offer

- (d) Any geographic limitations to the contract
- (e) Any required contractor response times.

(4) Delivery Order. Individual Delivery Orders issued under IDIQ contracts shall not exceed two hundred fifty thousand dollars (\$250,000). Projects shall not be artificially subdivided into multiple Delivery Orders to circumvent the \$250,000 limitation. Contracts for projects expected to exceed \$250,000 must be awarded through the formal RFP or RFQ process, except that Authority staff shall have the discretion to request the Capital Projects Committee to approve the issuance of Delivery Orders that exceed \$250,000 if there are circumstances supporting that IDIQ approval is in the best interests of the Authority. Each Delivery Order shall include a statement of work that clearly specifies all work to be performed under the Delivery Order so the full price for the performance of the work can be established when the Delivery Order is placed. Contractor pricing shall be consistent with their current negotiated fee schedule on file with the Authority. Delivery Orders shall be within the scope of the IDIQ Contract, issued within the period of performance.

(5) Project/Delivery Order Award. The Authority shall award Delivery Orders for projects under IDIQ contracts as follows:

- (a) The Authority shall solicit proposals with a stated deadline from all contractors that have been awarded IDIQ contracts for the applicable category or categories. Qualified Authority staff will review and score the proposals in accordance with the evaluation criteria as stated in the solicitation documents. The Authority shall document in writing the specific reasons for selection of the firm awarded the resulting Delivery Order, which shall be filed with and become part of the Delivery Order & Contract record. The justification shall include a statement that the fees being charged have been determined to be fair and reasonable for the scope of work to be performed, and must be reviewed and approved by the Director of Procurement & Risk Management prior to routing for any other required approvals. The basis for selection shall include at a minimum: (a) the firm's experience and qualifications in relation to the specific scope of the project, (b) the firm's capacity to perform the full scope of work within a timeframe acceptable to the Authority, (c) the firm's past performance on projects previously assigned by the Authority, (d) the number and total dollar amount of projects previously awarded to the firm by the Authority. The selection shall be made by Authority staff having the relevant technical knowledge, qualifications and experience to make such a determination. Delivery Orders shall be awarded to the highest ranked responsive and responsible contractor and subject to all required approvals for the applicable dollar threshold.
- (b) Design and Construction Administration Delivery Orders. Any project requiring both design and construction administration shall be treated as a single phased project.

(6) Completion of the Delivery Order Work After the IDIQ Termination Date. Work on individual projects started within the IDIQ contract term may continue past the end date of the term in order to bring the work to completion. In such event, the Chief of Engineering must provide advance written notice to the Board that the project work is expected to continue past the contract term end date, and the Board must approve the extension of time. Without such notification and approval, the Director of Procurement & Risk Management will automatically close out the IDIQ at the end of the contract term.

### **3-206 Contracts for Construction.**

(1) Project Delivery Methods for Construction. The following project delivery methods are authorized for procurements relating to Authority construction projects:

- (a) Design-bid-build;
- (b) Construction management at-risk; and
- (c) Design-build

(2) Definitions.

(a) *Design-bid-build* means a project delivery method in which the Authority sequentially awards separate contracts, the first for architectural and engineering services to design a public infrastructure facility, and the second for construction of the public infrastructure facility according to the design. Construction management in a Design-bid-build would be performed by the Authority.

(b) *Construction management at-risk* means a project delivery method in which the Authority awards separate contracts, one for architectural and engineering services to design a public infrastructure facility, and the second to a construction management at-risk for both construction of the public infrastructure facility according to the design and construction management services.

(c) *Design-build* means a project delivery method in which the Authority enters into a single contract for design and construction of a public infrastructure facility. Construction management in a Design-build would be performed by the Authority.

(3) Source Selection Methods Assigned to Project Delivery Methods. This section specifies the source selection methods applicable to procurements for the construction project delivery methods identified above.

(a) Design-Bid-Build:

- i. Design. Design, architectural and engineering, construction management, and land surveying services. A qualifications-based selection process shall be used to procure design, architectural and engineering, construction management, and land surveying services, unless those services are acquired in conjunction with construction using one of the project delivery methods provided in Section 3-206 (b) or (c) below.
- ii. Construction. Competitive sealed bidding shall be used to procure construction in design-bid-build procurements.

(b) Construction Management At-Risk: Contracts for construction management at-risk shall be procured by either competitive sealed bid or competitive sealed proposals.

(c) Design-build: Contracts for design-build shall be procured by competitive sealed proposals.

### **3-207 Small Purchases.**

(1) Any Procurement not exceeding twenty-five thousand dollars (\$25,000) may be made in such manner as shall be determined by the Director of Procurement & Risk Management in writing from time to time. The procedures for such purchases shall, to the extent practical, be set forth in operating procedures promulgated by the Director of Procurement & Risk Management.

(2) Such procedures may involve delegation of purchasing authority by the Director of Procurement & Risk Management to employees of the Authority.

### **3-208 Informal Quotes.**

Any procurement greater than twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000) shall be made by the requesting a minimum of three (3) informal written quotes. In the event at least three (3) written quotes are unable to be obtained within a reasonable timeframe, the procurement record shall include documentation showing that a good faith effort was made. If the lowest quote was not selected for the procurement, the procurement record shall include a justification for selecting a higher quote (i.e. low quote vendor could not meet required schedule).

### **3-209 Sole & Single Source Procurement.**

(1) Sole Source Procurement. Sole source & non-bid procurement shall occur as required and/or needed. Negotiations and contract awards may occur when there is only one source available for the required Supply, Service or Construction Project and competition is not available. Each requisition and/or contract award for a sole source purchase shall include a written justification stating why the vendor is the only available source. Examples of acceptable justifications include but are not limited to: (a) a patent, copyright or proprietary data, and (b) the purchase is a new component, repair, or replacement part of existing equipment for which no commercially available substitute exists. The justification shall also include a statement that efforts have been made to negotiate the best possible price on behalf of the Authority.

(2) Single Source Procurement. Single source & non-bid procurement shall occur as required and/or needed. Negotiations and contract awards may occur when there is more than one source for the required Supply, Service or Construction Project, but selecting a particular source is in the Authority's best interests based on the source's unique qualifications, abilities or knowledge. Each requisition and/or contract award for a single source purchase shall include a written justification stating the source's unique qualifications, abilities or knowledge, and why those characteristics serve the best interests of the Authority over any other possible source, and that efforts have been made to negotiate the best possible price on behalf of the Authority.

(3) Approval. All Sole and Single Source purchases shall require the prior written approval of the Director of Procurement & Risk Management. A justification memo shall be prepared by the requesting department and routed to the Director of Procurement & Risk Management. Sole and/or Single Source approval does not remove the approval requirements as set forth in Section 2-302..

### **3-210 Emergency Procurement.**

Notwithstanding any other provision of these Procedures, the Director of Procurement & Risk Management, General Manager, Deputy General Managers may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, or where normal daily operations are affected; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. As soon as practical, a record of each emergency procurement shall be made by the initiating department and shall set forth the contractor's name, the amount and type of the contract as applicable, a listing of the item(s) or service(s) procured, and a written documentation of the basis for the emergency and for the selection of the particular contractor. The record will be forwarded to the Director of Procurement & Risk Management within twenty-four (24) hours, if possible, after the occurrence. If an emergency procurement reaches the applicable dollar threshold which would require Committee and/or Board prior approval under non-emergency circumstances, then the details of the emergency procurement will be included in the packet for the next applicable Committee and/or Board meeting for disclosure

purposes.

### **3-211 Cancellation of Invitation for Bids or Requests for Proposals.**

An IFB, RFP, RFQ, 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 interest of the Authority. The reasons therefore shall be stated in writing and made part of the Contract file.

### **3-212 Local Supplier Preference.**

In that it is the desire of the Authority to support local vendors where possible in order to provide stability to our local economy, a competitive procurement made by Authority may be made from responsive and responsible resident suppliers within the jurisdictions of Beaufort or Jasper County for procurement, if such bid does not exceed the lowest qualified bid from a nonlocal supplier by more than one percent of the lowest nonlocal supplier.

A vendor or supplier shall be deemed to be a “local vendor” if such vendor is an individual, partnership, association or corporation that is authorized to transact business within the state, maintains an office in Beaufort or Jasper County, has a business license of Beaufort or Jasper County, or one of the municipalities within County jurisdictions, and maintains a representative inventory of commodities within Beaufort or Jasper County or one of the municipalities on which the bid is submitted and has paid all taxes duly assessed.

If the procurement is to be made pursuant to State or Federal guidelines which prohibit or restrict a preference, there shall be no local supplier preference unless a restricted variation is allowed under the guidelines.

## **Part C - Qualifications and Duties**

### **3-301 Responsibility of Bidders and Offerors.**

Determination of Non-responsibility. Determinations of non-responsibility of a bidder or offeror shall be made in writing by the Director of Procurement & Risk Management. The unreasonable failure of a bidder or offeror to supply information in a timely fashion 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.

### **3-302 Prequalification of Suppliers.**

Prospective suppliers may be prequalified for particular Supplies, Services, or Construction. The Director of Procurement & Risk Management in consultation with the appropriate Authority employees, may determine it to be in the best interest of the Authority to pre-qualify proponents for certain planned solicitations. The Authority shall pre-qualify vendors by issuing an RFQ identifying the supplies or services that will be the subject of future planned solicitations, and requesting proponents to provide the necessary information for the Authority to make fair and impartial determinations as to whether a proponent has met the pre-qualification requirements.

The Director of Procurement & Risk Management in collaboration with the appropriate Authority employees shall develop a scoring methodology to identify those proponents who meet the stated qualification requirements. When the RFQ process is concluded, the Authority may or may not issue a solicitation.

If a solicitation is issued, only the pre-qualified proponents shall be allowed to submit bids or proposals for the identified supplies or services. The Director of Procurement & Risk Management will maintain a listing of pre-qualified proponents including, but not limited to, the scope and nature of the supplies or services for which



the proponent has been pre-qualified to provide. The Director of Procurement & Risk Management shall re-advertise and re-solicit at intervals deemed necessary to maintain an adequate and up to date listing of pre-qualified proponents, and shall be no less than every five (5) years.

## **Part D - Change Order Procedures**

### **3-401 Approval Requirements**

(1) Change Orders on Purchase Orders and Contracts, including all Construction Services unless excluded elsewhere in this policy, must be appropriately documented, stating the reason for the change, financial impact, and referencing the original Purchase Order number. The following approvals are required for each contract prior to execution by the Director of Procurement & Risk Management:

- (a) Under \$5,000, individually or aggregately, must be approved by the supervisor;
- (b) Over \$5,000, individually or aggregately, must also be approved by the Manager
- (c) Over \$20,000, individually or aggregately, must also be approved by the Director
- (d) Over \$50,000, individually or aggregately, must also be approved by the Chief
- (e) Over \$75,000, individually or aggregately, must also be approved by the Deputy General Managers
- (f) Over \$100,000, individually or aggregately, must also be approved by the General Manager
- (g) Over \$150,000, individually or aggregately, must be approved by the Board.

Once aggregate or individual amount is met, all subsequent change orders must be approved by respective approval level.

(2) Change Orders involving capital projects, primarily Construction, should be supported by the engineer or the Contractor's change order documentation, providing a detailed description of the reason for the change and the financial impact. For all capital project Change Orders requiring Board approval, the Change Order shall be submitted through the Capital Projects Committee of the Board. Any Change Order to be submitted to the Board requiring a budgetary adjustment either to an individual capital project total or to the total Operations and Maintenance budget shall be submitted through the Finance Committee of the Board. The submitting department must provide the Director of Procurement & Risk Management with a copy of the Change Order documentation including the appropriate approval before the Purchase Order can be modified to include the Change Order.

(3) The Board must approve all Change Orders, regardless of the amount, for Purchase Orders and Contracts that were initially executed in an amount less than \$150,000.00 , if the subsequent total value of the Purchase Orders and Contracts exceed \$150,000.

## **Part E - Types of Contracts**

### **3-501 Types of Contracts.**

Subject to the limitations of this Section, any type of Contract which will promote the best interest of the Authority may be used. A cost-reimbursement Contract or a cost-plus-a-percentage-of-cost Contract, however, may be used only when a determination by the Director of Procurement & Risk Management is made in writing that such Contract is likely to be less costly to the Authority than any other type or that it is impracticable to obtain the Supplies, Services, or Construction required except under such a Contract.

### **3-502 Multi-Term Contracts.**

(1) Specified Period. A Contract for Supplies or Services may be entered into for a period of time not to exceed five (5) years, provided the term of the Contract and the conditions of renewal or extension, if any, are included in the solicitation and funds are available or budgeted for the payment obligations of the Authority in the first fiscal period of the Contract's term. Thereafter, payment obligations with respect to all Contracts shall be subject to the availability and appropriation of funds therefor.

(2) Determination Prior to Use. Prior to the utilization of a multi-term Contract, it shall be determined in writing:

- (a) that estimated requirements cover the period of the Contract and are reasonably firm and continuing; and
- (b) that such a Contract will serve the best interest of the Authority by encouraging effective competition or otherwise promoting economies in Authority procurement.

(3) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. All multi-term Contracts shall contain a clause stating that when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Contract shall be cancelled.

### **3-503 Signature Authority.**

Once all required approvals have been received as provided herein, to include the appropriate legal review and approval, Contracts shall be signed by the General Manager, or the Director of Procurement & Risk Management or his/her designee.

## **ARTICLE 4 - SPECIFICATIONS**

### **Part A - Definitions**

#### **4-101 Definitions of Terms Used in this Article.**

Specifications. Any description of the physical or functional characteristics, or of the nature of a Supply, Service, or Construction item. It may include a description of any requirement for inspection, testing, or preparing a Supply, Service, or Construction item for delivery.

### **Part B - Specifications**

#### **4-201 Maximum Practicable Competition.**

All Specifications issued by the Director of Procurement & Risk Management shall be drafted so as to promote overall economy for the purpose intended and encourage maximum free and open competition in satisfying the Authority's needs, and shall not be unduly restrictive.

## **ARTICLE 5 - SUPPLY MANAGEMENT**

#### **5-101 Disposition of Surplus Supplies.**

The sale of all Authority-owned surplus supplies and equipment shall be conducted by the Director

of Procurement & Risk Management and/or a Procurement Officer or Specialist at such places and in such manner most advantageous to the Authority. The Director of Procurement & Risk Management and/or Procurement Specialist notify Accounting of the sale so that the net proceeds are deposited the with the Authority's general funds.

#### **5-102 Competitive Sealed Bidding.**

(1) Solicitation and Bid Opening. When making sales by competitive sealed bidding, notice shall be given by internet postings to the Authority's website. The Notice of Sale shall list the Supplies or Property offered for sale; designate their location and how they may be inspected; and state the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening. Bids shall be conducted through online public auction.

(2) Award. Award shall be made in accordance with the provisions of the Notice of Sale to the highest Responsive and Responsible Bidder, provided that the price offered by such bidder is acceptable to the Director of Procurement & Risk Management. Where such price is not acceptable, the Director of Procurement & Risk Management may reject the bids in whole or in part and negotiate the sale provided the negotiated sale price is higher than the highest responsive and responsible bid.

#### **5-103 Auctions.**

Surplus supplies and equipment may be sold at auction and/or online auction; for ex: [www.govdeals.com](http://www.govdeals.com) The solicitation to bidders shall stipulate, at a minimum, any terms and conditions of sale and the fact that the Authority retains the right to reject any and all bids. Authority employees and Board members may participate in such auctions on an equal, non-preferential basis, with all other public bidders.

#### **5-104 Trade-in Sales.**

The Director of Procurement & Risk Management may trade-in personal property of the Authority, the trade-in value of which may be applied to the purchase of new like items, upon terms and conditions deemed appropriate by the Director of Procurement & Risk Management. All financial data and transaction records shall be disclosed to Accounting.

### **ARTICLE 6 - LEGAL AND CONTRACTUAL REMEDIES**

#### **6-101 Bid Protest Procedures and Removal from Bidders List.**

(1) Any prospective bidder, offeror, or Contractor who is aggrieved in connection with the solicitation of a Contract may protest to the Director of Procurement & Risk Management. Any such protest must be delivered in writing within five (5) days of the issuance of the solicitation, or within five (5) days of amendment thereto if the amendment is at issue.

(2) Any actual bidder, offeror, Contractor, or Subcontractor who is aggrieved in connection with the intended award or award of a Contract shall protest to the Director of Procurement & Risk Management. Any such protest must be delivered in writing within five (5) days of the date the notice of award or intent to award is posted by the Director of Procurement & Risk Management.

(3) The Director of Procurement & Risk Management shall review all such protests and attempt to resolve any bid protest by consulting with the affected parties. In the event that the protest cannot be resolved through consultation, then the Director of Procurement & Risk Management will provide a written decision with respect to the protest.

(4) Any party aggrieved by the decision of the Director of Procurement & Risk Management with regard to a bid protest may file a written appeal with the Board within five (5) days of the decision of the Director of Procurement & Risk Management.

(5) Upon receiving the written appeal, the Authority's Board Chair shall appoint a committee, which will hear the appeal within fifteen (15) days. The committee shall prepare a written report concerning the appeal for the Board of Directors.

(6) The Board will take final action on any bid protest based solely upon the written report from the committee and any other documents previously submitted in connection with the bid protest.

(7) The remedies set forth herein shall be the sole remedies of the protestant and anyone claiming through him, including remedies for the violation of these Procedures.

(8) Any supplier or Contractor who is actively involved in litigating a claim or claims with the Authority shall be removed from the bid list and will not be allowed to bid on any projects until such litigation is fully and finally resolved. The Director of Procurement & Risk Management shall also have the authority to remove from the bid list any supplier or Contractor who has defaulted on its quotations, attempted to defraud the Authority, or who has performed in an unsatisfactory manner, by debaring or suspending such supplier or Contractor as provided for in this Article.

#### **6-102 Authority to Debar or Suspend.**

(1) Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director of Procurement & Risk Management, after consultation with the Authority's General Counsel and General Manager, shall have authority to debar a person for cause from consideration for award of Contracts. Unless otherwise provided for herein, the debarment shall not be for a period of more than three (3) years. The Director of Procurement & Risk Management, after consultation with the Authority's General Counsel and General Manager, shall have authority to suspend a person from consideration for award of Contracts if there is probable cause for debarment per 6-102 (2). Unless otherwise provided for herein, the suspension shall not be for a period exceeding three (3) months. The authority to debar or suspend shall be exercised in accordance with operating procedures promulgated hereunder.

(2) Causes for Debarment or Suspension. The causes for debarment or suspension include but are not limited to the following:

- (a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Contractor;
- (c) conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- (d) violation of Contract provisions, as set forth below, of a character which is regarded by the Director of Procurement & Risk Management to be so serious as to justify debarment action:

- (i) deliberate failure without good cause to perform in accordance with specifications or within the time limit provided in the Contract; or
- (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for debarment.
- (e) actively involved in litigating a claim or claims with the Authority;
- (f) any other cause the Director of Procurement & Risk Management determines to be so serious and compelling as to affect responsibility as a Contractor, including but not limited to, debarment by another governmental entity for cause.
- (g) violation of the ethical standards set forth in South Carolina State Ethics Act.

(3) Decision. The Director of Procurement & Risk Management shall issue a written decision with respect to the debarment or suspension within thirty (30) days of their determination to take such action. The decision shall:

- (a) state the reasons for the action taken; and
- (b) inform the debarred or suspended person involved of their rights to administrative review as provided in this Article.

(4) Notice of Decision. A copy of the decision under Subsection (3) of this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening on their behalf.

(5) Finality of Decision; Appeals. A decision under Subsection (3) of this Section shall be final and conclusive unless the debarred or suspended person appeals to the Board in accordance with this Article. Contracts shall not be stayed pending the decision of the Director of Procurement & Risk Management and the protestant's remedies set forth herein shall be the protestant's exclusive remedy, including any remedy for violation of these Procedures. A protestant may appeal the decision of the Director of Procurement & Risk Management to the Board by requesting a review, in writing, with the Authority within five (5) days of the Director of Procurement & Risk Management's decision. No new issues will be considered by the Board on appeal. The Board may appoint a committee to hear any such appeals. The Board shall take final action on such appeals based solely upon the written report of such committee, if any, and any documents previously submitted by the Director of Procurement & Risk Management or the protestant.

### **6-103 Authority to Resolve Contract and Breach of Contract Controversies.**

(1) Applicability. This Section applies to controversies between the Authority and a Contractor which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for Contract modification or rescission.

(2) Authority. The Director of Procurement & Risk Management in conjunction with the Authority's General Counsel and General Manager, is authorized, prior to commencement of an action in

a court concerning the controversy, to settle and resolve a controversy described in Subsection (1) of this Section. Such settlement shall not include financial consideration exceeding twenty-five thousand dollars (\$25,000).

(3) Decision. If such a controversy is not resolved by mutual agreement, the Director of Procurement & Risk Management shall promptly issue a decision in writing within thirty (30) days of their determination that the controversy cannot be resolved. The decision shall:

- (a) state the reason for the action taken; and
- (b) inform the contractor of its rights to administrative review as provided in this Article.

(4) Notice of Decision. A copy of the decision under Subsection (3) of this Section shall be mailed or otherwise furnished immediately to the Contractor.

(5) Finality of Decision. The decision under Subsection (3) of this Section shall be final and conclusive, unless the contractor appeals to the Board in accordance with this Article.

#### **6-104 Solicitations or Awards in Violation of Law.**

The provisions of this Section apply where it is determined administratively, or upon administrative review, that a solicitation or award of a Contract is in violation of law.

(1) Remedies Prior to an Award. If prior to award it is determined that a solicitation or proposed award of a Contract is in violation of law, then the solicitation or proposed award shall be:

- (a) cancelled; or
- (b) revised to comply with the law.

(2) Remedies After an Award. If after an award it is determined that a solicitation or award of a Contract is violation of law, then:

- (a) if the person awarded the Contract has not acted fraudulently or in bad faith:
  - (i) the Contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the Authority; or
  - (ii) the Contract may be terminated, and the person awarded the Contract shall be compensated for the actual expenses reasonably incurred under the Contract prior to the termination;
- (b) if the person awarded the Contract has acted fraudulently or in bad faith:
  - (i) the Contract may be declared null and void; or
  - (ii) the Contract may be ratified and affirmed if such action is in the best interests of the Authority, without prejudice to the Authority's right to such damages against the person as may be appropriate.

## **ARTICLE 7 - INTERGOVERNMENTAL RELATIONS**

## **Part A - Definitions**

### **7-101 Definitions of Terms Used in this Article.**

(1) Cooperative Procurement. Procurement conducted by, or on behalf of, more than one Public Procurement Unit. A term that refers to the combining of requirements of two or more public procurement entities to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses.

(2) Piggyback (Piggyback Cooperatives). A form of intergovernmental cooperative purchasing in which a Public Procurement Unit will be extended the same pricing and terms of a contract entered into by another Public Procurement Unit. Generally, the originating Public Procurement Unit will competitively award a contract that will include language allowing for other Public Procurement Units to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own.

(3) Public Procurement Unit. Any county, city, town and any other subdivision of the State, including Tax Authority, or public agency of any such subdivision, public authority, educational, health, or other institution, or other entity which expends public funds for procurement of supplies, services or construction.

## **Part B - Cooperative Procurement**

### **7-201 Cooperative Procurement Authorized.**

The Director of Procurement & Risk Management, subject to the review and approval by the Deputy General Manager, Finance & Administration, may participate in, sponsor, conduct, or administer a cooperative purchasing agreement or piggyback agreement for the procurement of Supplies, Services, or Construction with one or more Public Procurement Units. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between Public Procurement Units.

### **7-202 Sale, Acquisition or Use of Supplies.**

The Director of Procurement & Risk Management may sell to, acquire from, or use any Supplies belonging to another Public Procurement Unit independent of the requirements of Article 3 of these Procedures.

### **7-203 Cooperative Use of Supplies or Services.**

The Director of Procurement & Risk Management may enter into an agreement, independent of the requirements of Article 3 of these Procedures, with any Public Procurement Unit for the cooperative use of Supplies or Services under the terms agreed upon between the parties.

### **7-204 Joint Use of Facilities.**

The Director of Procurement & Risk Management may enter into agreements for the common use or lease of warehousing facilities, capital equipment and other facilities with another Public Procurement Unit under the terms agreed upon between the parties.

### **7-205 Use of State Contracts.**

The Director of Procurement & Risk Management may, independent of the requirements of Article 3 of these Procedures, procure Supplies, Services or Construction items through the Contracts established by the General Services Division of the State of South Carolina as provided in Chapter 35 of Title 11 (State Consolidated Procurement Code), South Carolina Code of Laws, 1976.

## **ARTICLE 8 – SMALL, MINORITY & WOMAN-OWNED BUSINESS UTILIZATION PLAN**

### **Part A - Definitions**

#### **8-101 Definitions of Terms Used in this Article.**

(1) Small Business Enterprise (SBE). A business certified as a small business by governmental or other public entity in the United States having a certification program.

(2) Minority Business Enterprise (MBE). A business owned by a Minority Person and certified as a minority business by any governmental or other public entity in the United States having a certification program.

(3) Minority Person. for the purpose of this article, means a United States citizen who is economically and socially disadvantaged.

(a) "Socially disadvantaged individuals" means those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identification as members of a certain group, without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians), Asian Pacific Americans, and other minorities to be designated by the Authority.

(b) "Economically disadvantaged individuals" means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(4) Woman-Owned Business Enterprise (WBE). A business owned by a woman (or women) and certified as a woman-owned business by any governmental or other public entity in the United States having a certification program.

### **Part B – Utilization Plan**

#### **8-201 Purpose**

(1) Purpose. The Authority seeks to address disparities and promote an environment where small, minority & woman-owned business (collectively SMWBEs) are afforded every opportunity to fully and fairly participate in the overall procurement process of the Authority.

(2) Certification Resources. The Authority does not have a certification program for SMWBEs, but shall encourage qualifying businesses to become certified with the South Carolina Department of Transportation ([www.scdot.org/business/bus-development-dbe-sbe-cert.aspx](http://www.scdot.org/business/bus-development-dbe-sbe-cert.aspx)) and/or the South Carolina Division of Small and Minority Business Contracting and Certification ([osmba.sc.gov/resources.html](http://osmba.sc.gov/resources.html)). However, the Authority will recognize certification issued by any governmental or other public entity in the United States having a certification program.



(3) Outreach. The Authority shall make a good faith effort to utilize known and available listings of certified SMWBEs to proactively solicit such entities to respond to Authority business opportunities. The Authority will seek opportunities to participate in SMWBE outreach events and business assistance activities

(4) Contractor Good Faith Effort Program. The Authority shall create and implement a Good Faith Effort Program requiring any contractor that submits a bid or proposal to state whether it will self-perform 100% of the contracted services or will involve subcontractors. If subcontractors are included in a contractor's bid or proposal, the contractor will be required to document their efforts to include SMWBEs and submit the documentation with its bid/proposal. If a SMWBE is included in a contractor's bid or proposal, proof of a current certification shall be submitted with its bid/proposal.

(5) Reporting. No later than September 1<sup>st</sup> of each calendar year, the Authority shall provide an annual progress report to its Board for the prior fiscal year, which includes the following information:

- (a) number of SMWBE firms directly solicited by the Authority;
- (b) number of SMWBE bids/proposals received by the Authority;
- (c) total dollar amount of funds expended on contracts awarded to SMWBEs; and
- (d) total dollar amount of funds expended on all awarded contracts.