PURCHASING PROCEDURES
TABLE OF CONTENTS

RESOLUTION: 5-6

ARTICLE 1 – GENERAL PROVISIONS:

A. Purposes & Application
   1-101 Purpose A-1
   1-102 Application A-1
   1-103 Good Faith Provision A-1
   1-104 Value Analysis A-1
   1-105 Specific Repealer A-2
   1-106 Effective Date A-2

B. Definitions of Terms Used in Procedures
   1-201 Definitions A-2-A4

C. Compliance with State & Federal Requirements
   1-301 Public Access to Procurement Information A-4
   1-302 Compliance with Federal Requirements A-4
   1-303 Standards of Conducts A-4
   1-304 Ethics in Procurement A-4-A5

ARTICLE 2 – PROCUREMENT ORGANIZATION:

A. Director of Business Services
   2-101 Authority & Duties A-6
   2-102 Delegation of Authority by the Director of Business Services A-6

B. Organization of Public Procurement
   2-201 Centralization of Procurement Authority A-7
   2-202 Exemptions A-7

C. Procurement Regulations
   2-301 Procurement Operating Procedures A-7
   2-302 Purchase Order Approval Requirements A-7

D. Request for Qualifications
   2-401 Pre-Qualification of Contractors & Professional Services A-8
   2-402 Pre-Qualification Standards A-8
   2-403 Qualified Products & Nonprofessional Services Listing A-9

E. Purchasing Card Program
   2-501 Program Description A-9
ARTICLE 3 – SOURCE SELECTION AND CONTRACT FORMATION:

A. Definitions
   3-101 Definitions of Terms A10

B. Methods of Source Selection
   3-201 Methods of Source Selection A-10
   3-202 Competitive Sealed Bidding A-11-A-12
   3-203 Competitive Proposals A-12-A-13
   3-204 Small Purchases A-13
   3-205 Sole Source Procurement A-13
   3-206 Emergency Procurement A-13
   3-207 Cancellation of Bid Invitation or RFP’s A-13
   3-208 Local Supplier Preference A-14

C. Qualifications & Duties
   3-301 Responsibility of Bidders & Offerors A-14
   3-302 Prequalification of Suppliers A-14-A-15

D. Change Order Procedures
   3-401 Approval Requirements A-14

E. Types of Contracts
   3-401 Types of Contracts A-15
   3-402 Multi-Term Contracts A-15

ARTICLE 4 – SPECIFICATIONS:

A. Definitions
   4-101 Definitions of Terms A-16

B. Specifications
   4-201 Maximum Practicable Competition A-16

ARTICLE 5 – SUPPLY MANAGEMENT:

5-101 Disposition of Surplus Supplies A-16
5-102 Competitive Sealed Bidding A-16
5-103 Auctions A-17
5-104 Trade-in Sales A-17

ARTICLE 6 – LEGAL & CONTRACTURAL REMEDIES:

6-101 Bid Protest Procedures & Removal from Bidders List A-17
6-102 Authority to Debar or Suspend A-18-A-19
6-103 Authority to Resolve Contract Breach A-19
6-104 Solicitations or Awards in Violation of Law A-20
ARTICLE 7 – INTERGOVERNMENTAL REGULATIONS:

A. Definitions
   7-101 Definitions of Terms

B. Cooperative Purchasing
   7-201 Cooperative Purchasing Authorization
   7-202 Sale, Acquisition or Use of Supplies
   7-203 Cooperative Use of Supplies or Services
   7-204 Joint Use Facilities
   7-205 Use of State Contracts
Resolution

Establishing Procurement Procedures for the Beaufort-Jasper Water and Sewer Authority

Be It Resolved By The Board Of The Beaufort-Jasper Water And Sewer Authority, South Carolina, In Meeting Duly Assembled:

Section 1 Findings of Fact.

As an incident to the adoption of this Resolution, the Board of the Beaufort-Jasper Water and Sewer Authority (the “Board”), the governing body of the Beaufort-Jasper Water and Sewer Authority, South Carolina (the “Authority”), has made the following findings:

(a) The Authority is a special purpose district created pursuant to the laws of the State of South Carolina, specifically including Act No. 784 of the 1954 Act and Joint Resolutions of the South Carolina General Assembly and various amendments thereto (the “Enabling Legislation”) to include SC Code Ann. Section 6-11-1230 and the BJWSA Act found at SC Code Ann.56-37-10, et seq., 1976 code (2009) and is thus a political subdivision of the State of South Carolina. Pursuant to the Enabling Legislation, the Authority is authorized to acquire property and contract for services in furtherance of its functions as defined in the Enabling Act, as amended.

(b) Act 148 of the 1981 Acts and Joint Resolutions of the South Carolina General Assembly, now codified as Section 11-35-10, et seq. of the Code of Laws of South Carolina, 1976, as amended (the “State Procurement Code”), requires that all political subdivisions of the State of South Carolina adopt “ordinances or procedures embodying sound principles of appropriate procurement.”

(c) In conformity with the State Procurement Code, the Authority has heretofore maintained a Purchasing Policy (“Policy”) which has been revised from time to time.

(d) Following a review of the Authority’s procurement needs, the Board has determined that it is advisable for the Authority to revise the procurement practices contained in the Policy and to replace the Policy in its entirety by a comprehensive set of procurement procedures.

(e) The Board has determined that such procedures will benefit the Authority and will serve a valid public purpose.

Section 2 Adoption of Procurement Procedures.

There are hereby adopted and established the Procurement Procedures set forth on “Exhibit A” hereto, which Exhibit A is incorporated in this Resolution by reference as if fully set forth herein. Such Procurement Procedures shall have full force and effect until amended or repealed by future action of the Board.

Section 3 Further Actions.

In order to implement the terms of these Procedures, the Chairman, the Secretary, the General Manager, Deputy General Manager-Finance & Administration, and the Director of Business Services of the Authority are hereby authorized to take such further action as they shall deem necessary or desirable for the implementation of the Procurement Procedures adopted and established herein.

Section 4 Severability.
If any one or more of the provisions of this Resolution (including the provisions of the Procurement Procedures attached hereto and included herein by reference) should be contrary to law, then such provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of other portions of this Resolution.

Section 5  Effective Date.

This Resolution shall become effective as of the date hereof; provided, however, that the Procurement Procedures provided for herein shall become effective as stated in Section 1-104 thereof.

DONE, RATIFIED, AND ADOPTED THIS 22 day of MARCH, 2018.

BEAUFORT-JASPER WATER AND SEWER AUTHORITY, SOUTH CAROLINA

Chairman of the Board

ATTEST:

Secretary of the Board

AMENDED AND ADOPTED THE 22ND DAY OF MAY, 2008 BY BJWSA BOARD ACTION. (RE: SECTION/PAGES: Part B, 3-201 page A-10; 3-208 page A-13)

AMENDED AND ADOPTED THE 24th DAY OF MAY, 2012 BY BJWSA BOARD ACTION. (RE: SECTION/PAGES: Section 1 Part A page 5; Section 3 page 5; Section 1-201 Part 6 page A-2; Section 2-101 Part 1 page A-6; Section 2-101 Part 2-e, 2-h page A-6; Section 2-102 page A-6; Section 2-202 Part 2-f page A-7; Section 2-301 page A-7; Section 2-302 page A-7/A-8; Section 2-401 part 2 page A-8; Section 2-402 page A-8/A-9; Section 2-501 Part 1, 2 page A-9; Section 3-202 Part 3, 7 page A-11; Section 3-203 Part 1 page A-12; Section 3-205 page A-13; Section 3-206 page A-13; Section 3-208 page A-14; Section 3-401 page A-14/A-15; Section 5-101 page A-16; Section 5-102 Part 1 page A-16; Section 5-103 page A-17; Section 5-104 page A-17; Section 6-102 Part 4 page A-19; Section 6-103 Part 3 page A-20; Section 6-104 Part 2b page A-20; Section 7-201 page A-21)

AMENDED AND ADOPTED THE 22th DAY OF MARCH, 2018 BY BJWSA BOARD ACTION. (RE: Replace All: Chief Financial Officer with: Deputy General Manager-Finance & Administration Replace All: Purchasing Manager with: Director of Business Services) (RE: SECTION/PAGES: Section 2 Part A page A-6; Section 2 Part B 2-202 page A-7; Section 2 Part C 2-302 page A-8; Section 2 Part D 2-401-2 page A-8; Section 2 Part D 2-402 page A-9; Section 2 Part D 2-403 page A-9; Section 3 Part B 3-203 page A-12; Section 3 Part B 3-205 page A-13; Section 3 Part B 3-208 page A-14; Section 3 Part C 3-401 page A-14-A15; Section 5 Part 5-102 page A-16)
STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, the undersigned, Secretary of the Board of the Beaufort-Jasper Water and Sewer Authority, South Carolina (the “Authority”), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of a Resolution adopted by the Authority on 22 day of MARCH 2018. The Resolution was adopted at a public meeting of the Authority. A quorum of the Authority was present and remained present throughout the meeting.

The Resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the Beaufort-Jasper Water and Sewer Authority, this 22 day of MARCH 2018.

(SEAL)

[Signature]

Secretary of the Board,
Beaufort-Jasper Water and Sewer Authority,
South Carolina
PROCUREMENT 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 public purchasing 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 entered into by the Authority after the effective date of these Procedures unless the parties agree to its application to contracts entered into prior to the effective date. 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 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, and it is essential that maximum return on investment be obtained. 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.

1-105 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.

1-106 Effective Date.

These Procedures shall become effective at 12:00 A.M. on March 22nd, 2018.

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 Projects. 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 Business Services, directing the contractor to make changes which the “Changes” clause of the contract authorizes the Director of Business Services to order without the consent of the contractor.

(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) Chief Officers. Authority management consisting of the General Manager, Deputy General Manager-Finance & Administration, & the Deputy General Manager Operations & Technical Services.

(7) 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.

(8) Contract. The legal obligation which results from the parties’ agreement for the procurement of supplies, services, or construction.

(9) 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 proposal, proposed contracts, proposed bond form, general conditions, special conditions, and technical specifications.

(10) 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.

(11) Contractor. Any person having a contract with the Authority.
(12) **Data.** Recorded information, regardless of form or characteristic.

(13) **Days.** Days shall mean calendar days.

(14) **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.

(15) **Designee.** A duly authorized representative of a person holding a superior position.

(16) **Employee.** An individual drawing a salary from this Authority and any non-compensated individual acting as the Authority’s designated agent.

(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) **May.** Denotes the permissive.

(21) **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.

(22) **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.

(23) **Procurement Officer.** Any person duly authorized 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.

(24) **Director of Business Services.** The person designated as the head of the central procurement office of the Authority.

(25) **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.

(26) **Shall.** Denotes the imperative.

(27) **Subcontractor.** Any person having a Contract with a Contractor which Contract
relates to the Contract between the Contractor and the Authority.

(28) **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.

(29) **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 Business Services as provided for in Section 6-102 hereof.

(30) **Value Analysis.** The mode of analysis set forth in Section 1-104 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”), 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.

1-302 **Compliance with Federal Requirements.**

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

1-303 **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.

1-304 **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 the employee knows that:

(a) the employee or official or any member of the employee or official’s immediate family 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 or official or any
member of the employee or official's immediate family is negotiating or has an
arrangement concerning prospective employment is involved in the procurement
contract.

An employee or official or any member of the employee or official's immediate family 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.

(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 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.

(c) Courtesies. Employees may accept for themselves and members of their families
common courtesies usually associated with customary business practices from
suppliers of merchandise, services, supplies, etc., to the Authority when given for the
overall benefit of the Authority.

(d) Cash. It is never permissible for Authority employees or officials to accept gifts in
cash or cash equivalents (i.e., stocks, marketable securities, etc.) of any amount from
Contractors or potential contractors.
ARTICLE 2 - PROCUREMENT ORGANIZATION

Part A – Director of Business Services

2-101 Authority and Duties.

(1) **Director of Business Services.** The Director of Business Services 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 Business Services reports to the Deputy General Manager-Finance & Administration. When deemed appropriate, the Director of Business Services, may authorize other employees of the Authority as the Procurement Officer/Buyer for a specific procurement.

(2) **Duties.** The duties of the Director of Business Services include, but not be 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 the Accounting;

(d) establishing and maintaining programs for the inspection, testing, and acceptance of supplies, services, and construction;

(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 as assigned by the Deputy General Manager-Finance & Administration, that is within the intent and scope of this policy.

(3) **Operational Procedures.** Consistent with these Procedures, the Director of Business Services may adopt operational procedures relating to the execution of his duties.

2-102 Delegation of Authority By the Director of Business Services.

The Director of Business Services may delegate authority to a designee or designees provided that each such designee be an employee of the Authority, and is approved in advance 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 Business Services, or his 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 Business Services, 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; and
(e) insurance services
(f) department specific training and educational programs and materials
(g) department association memberships
(f) employee travel

Part C - Procurement Regulations

2-301 Procurement Operating Procedures
The Director of Business Services 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 Business Services:

(a) Under $10,000 must be approved by the supervisor;
(b) Over $10,000 must also be approved by the Division Manager.
(c) Over $25,000 must also be approved by one of the Chief Officers, Directors and/or Division Managers
(d) Over $50,000 must also be approved by the General Manager
(e) Over $100,000 must be approved by the Board.

Exception: Purchase Orders for items listed in the Board Approved Operating Budget that exceed $100,000 do not require Board Approval so long as Purchase Order is within the stated budget and the sourcing is made through: competitive bidding, South Carolina State Contract, and/or Cooperating Procurement. Board Approval shall be required if the final Purchase Order price exceeds the stated operating budget.

Part D - Request for Qualifications

2-401 Pre-qualification of Contractors and Professional Service Providers

(1) When required, the Director of Business Services, in consultation with the appropriate Authority employees, may determine that it shall be in the best interest of the Authority to pre-qualify suppliers for contracts of a particular type. The Authority may impose specific standards that must be met by any contractor who wishes to provide an offer on the proposed supplies or services. The potential contractor shall submit required data so that the Director of Business Services can make a fair and impartial determination as to whether a contractor has met such pre-qualification standards and can supply the best value to the authority. When pre-qualification is required, only those contractors who submit the required information and who are actually pre-qualified to submit a proposal on the contract in question, or who are parties to a joint venture formed by suppliers who are pre-qualified, shall be allowed to submit bids or proposals on the contract in question.

(2) Contracts for the procurement of professional services, which are normally obtained on a fee basis, or other such specialized services, including without limitation the services of architects, engineers, accountants, attorneys, and technology providers may be awarded to firms selected from a pre-qualified list who are invited to submit proposals for specific Authority projects. When competing proposals are solicited for such services, depending on the type of professional or special service that is required, the Authority shall look beyond the price estimates or bids to the qualifications of the firms. Pricing, technical factors and qualifications of the staff and firm should receive balanced consideration. Selection of firms from these pre-qualified lists may be made without requiring the firms to submit competitive proposals/bids when the estimated contract value does not exceed ($50,000.00).

2-402 Pre-Qualification Standards

The Director of Business Services and other appropriate Authority employees as chosen by Director of Business Services will review all proposals received from a request for qualifications (RFQ). If deemed appropriate, a panel of qualified employees may be selected by the Director of Business Services to assist in the pre-qualification process. The Director of Business Services, the Buyer, and the panel, if established, shall review all information submitted by the suppliers and, if necessary, require additional information. If the determination is made that the contractor meets the standards requested, then the contractor shall be so pre-qualified. The Director of Business Services will maintain a listing of pre-qualified contractors including, but not limited to, the scope and nature of the supplies or services for which the contractor has been
pre-qualified to provide and, if applicable, the cost to the Authority for said supplies or services. The Director of Business Services shall advertise and solicit every five years Request for Qualifications (RFQ’s) for predetermined classifications of consultants, professional service providers, non-professional service providers & utility contractors in order to maintain the most up to date listing of pre-qualified vendors as possible.

2-403 Qualified Products and Nonprofessional Services Listing

The Director of Business Services shall advertise and solicit at least every five years, and on an on-going basis as needed, bids for products and services needed on a repeat basis (construction supplies, maintenance or others as selected) with the purpose of creating a pool of qualified suppliers that are capable of performing such services satisfactorily and within a competitive range. Information such as labor and equipment pricing rates, capability and qualification statements, customer references, etc. may be requested and evaluated. The Director of Business Services shall review proposals and, after consulting with appropriate Authority users of the services shall select vendors who provide the best value offer to the Authority. Additionally, the Director of Business Services shall maintain an index of these vendors by name and the list shall be cross-referenced for products and services. The vendor’s name shall be kept for two (2) years or permanently if the vendor continues to offer bids on a regular basis. Records shall be kept as to the number of times a vendor is contacted for informal quotes and other bids. Upon the request of the vendor, the vendor shall be added, if approved by the Director of Business Services, or deleted from the list. Purchasing directed awards shall be made on a rotational basis depending on specific project needs in the best interest of the Authority and without further bid activity. The use of such a list is not intended to restrict competition, but to ensure efficiency in the procurement process, while providing the best value to the Authority.

Part E – Purchasing Card Program

2-501 Program Description

(1) The Director of Business Services and Accounting are responsible for overseeing the Purchasing Card Program. The Authority Purchasing Card acts as a corporate credit card to facilitate purchases by delegating authority to purchase supplies and services conveniently and directly from vendors that accept credit cards. The Purchasing Card 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 Purchasing Card should be used for purchases relating only to Authority business and use of the card for personal purposes is strictly prohibited. Cardholders assume responsibility for the protection and proper use of the Purchasing Card. Accounting is responsible for assigning the cards and monitoring usage. The Deputy General Manager-Finance & Administration is responsible for ensuring that appropriate accounting procedures, including internal controls over expenditures, are followed.
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) **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.

(3) **Invitation for Bids.** All documents, whether attached or incorporated by reference, utilized for soliciting bids.

(4) **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.

(5) **Request for Proposals.** All documents whether attached or incorporated by reference, utilized for soliciting proposals.

(6) **Responsible Bidder or Offeror.** A person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) **Responsive Bidder or Offeror.** A person who has submitted a bid or proposal which conforms in all material respects to the Invitation for Bids or Request for Proposals.

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 2-401 (Pre-qualification of Professional Service Providers and Contractors)

(b) Section 3-203 (Competitive Sealed Proposals);

(c) Section 3-204 (Small Purchases);
3-202 Competitive Sealed Bidding.

(1) Conditions for Use. Competitive sealed bids may be solicited for any Procurement at the option and in the sole discretion of the Director of Business Services. Competitive sealed bids and/or request for proposals shall be solicited for any Procurement expected to exceed $100,000 in Contract price – Exception: Sole Source-Non Bid Scenarios – Reference Section 3-205

(2) Invitation for Bids. An Invitation for Bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the Procurement. For all competitive sealed bids, an Invitation for Bids must be issued to not less than three (3) potential bidders.

(3) Submission of Bids and Bid Opening. Sealed bids shall be submitted to the Authority securely sealed in an envelope with such designation as may be provided for in the Invitation for Bids. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder, shall be recorded; the record and each bid shall be open to the public inspection after award. The Director of Business Services, in his discretion, may require a bid deposit to be included with each sealed bid. Upon the award of the Contract in question, unsuccessful bidders shall be entitled to the return of any such bid deposit within ten (10) days of the award of the contract. A successful bidder shall forfeit its bid deposit upon failure to enter into the Contract sought by the Procurement within ten (10) days of the date of award.

(5) 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 Invitation for Bids, 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 Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the Invitation for Bids.

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.

(6) 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 Business Services. 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 Business Services.
(7) **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 Invitation for Bids. 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 (5) percent, the Director of Business Services 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 Business Services may, in his discretion and only as provided for in the Invitation for Bids, waive any technicalities with respect to any bid and reject any or all bids.

The Director of Business Services may, in his 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 Invitation for Bids.

(8) **Multi-Step Sealed Bidding.** When it is considered impractical initially to prepare a purchase description to support an award based on price, an Invitation for Bids may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids 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 $50,000 in Contract price with a minimum of three (3) potential proposers or when to do otherwise is justified in writing and approved by the Director of Business Services.

2. **Request for Proposals.** Proposals shall be solicited through a Request for Proposals, which shall be issued to not less than three (3) potential proposers.

3. **Proposal Opening.** Proposals may be either publicly opened and prices announced, or if not publicly opened, bid data will be recorded, tabulated and provided by the Director of Business Services to each offeror. Contents of competing offerors shall not be disclosed during the process of negotiation. Proposals shall be open for public inspection after Contract award.

4. **Discussion with Responsible Offerors and Revisions to Proposals.** As provided in the Request for Proposals, discussions may be conducted with Responsible Offerors who submit proposals determined to be reasonably susceptible of 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 submitted by competing offerors.

5. **Evaluation Factors.** The Request for Proposals shall state the evaluation factors in relative order of importance.

6. **Award.** Award shall be made to the Responsible Offeror whose proposal is determined in writing by the Director of Business Services and to be most advantageous to the Authority taking

A-12
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.

The Director of Business Services may, in his 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 Request for Proposals.

3-204 Small Purchases.

(1) Any Procurement not exceeding $25,000 may be made in such manner as shall be determined by the Director of Business Services 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 Business Services.

(2) Such procedures may involve delegation of purchasing authority to employees of the Authority and may authorize the use of established accounts and lines of credit by those employees.

3-205 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 state 1) why only this product or service can meet the need, for example a patent, copyright or proprietary data limits competition 2) the purchase is a component, repair, or replacement part of existing equipment for which no commercially available substitute exists 3) why the vendor is the only available source 4) and that efforts have been made to negotiate the best possible price on behalf of the Authority.

Any decision by the Director of Business Services that procurement be restricted to one (1) potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

3-206 Emergency Procurement.

Notwithstanding any other provision of these Procedures, the Director of Business Services or any of the Chief Officers 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 Business Services within twenty-four (24) hours, if possible, after the occurrence.

3-207 Cancellation of Invitation for Bids or Requests for Proposals.

An Invitation for Bids, a Request for Proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the Authority. The reasons therefore shall be stated in writing and made part of the Contract file.
3-208 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. The local supplier has the discretion to match the bid submitted (within 24 hours of the bid certification & results notification) by the nonlocal supplier and receive the contract award.

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 restricted variation is allowed under the guidelines.

Part C - Qualifications and Duties

3-301 Responsibility of Bidders and Offerors.

(1) Determination of Nonresponsibility. Determinations of nonresponsibility of a bidder or offeror shall be made in writing by the Director of Business Services. 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 nonresponsibility with respect to such bidder or offeror.

3-302 Prequalification of Suppliers.

Prospective suppliers may be prequalified for particular types of Supplies, Services, and Construction. Solicitation mailing lists of potential Contractors shall include but shall not be limited to such prequalified suppliers. The prequalification requirements should be defined by the Director of Business Services and included in the operating procedures.

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 Business Services:

(a) Under $10,000, individually or aggregately, must be approved by the supervisor;
(b) Over $10,000, individually or aggregately, must also be approved by the Division Manager
(c) Over $25,000, individually or aggregately, must also be approved by one
(d) Over $50,000, individually or aggregately, must also be approved by the General Manager.
(e) Over $100,000, individually or aggregately, must be approved by the Board.

(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 Business Services with a copy of the Change Order documentation including the appropriate approval before the Purchase Order can be modified to include the Change Order.

Part E - Types of Contracts

3-401 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 Business Services 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.

3-402 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.
ARTICLE 4 - SPECIFICATIONS

Part A - Definitions

4-101 Definitions of Terms Used in this Article.

(1) Specification. 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 Business Services 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 shall be conducted by the Director of Business Services and/or Buyer at such places and in such manner most advantageous to the Authority. The Director of Business Services and/or Buyer shall deposit the proceeds from such sales, less expense of the sales, with the Authority general funds, coordinating all financial data with Accounting, unless otherwise directed by the Authority.

5-102 Competitive Sealed Bidding.

(1) Solicitation and Opening. When making sales by competitive sealed bidding, notice of the sale should be given at least fifteen (15) days before the date set for opening bids. 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 Business Services. Where such price is not acceptable, the Director of Business Services 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:
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 Business Services 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 Business Services. All financial data and transaction records shall be disclosed to the 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 Business Services. Any such protest must be delivered in writing within five (5) days of the issuance of the Invitation for Bids or Request for Proposals, 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 Business Services. 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 Business Services.

(3) The Director of Business Services 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 Business Services will provide a written decision with respect to the protest.

(4) Any party aggrieved by the decision of the Director of Business Services 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 Business Services.

(5) Upon receiving the written appeal, the Chairman of the Board of the Authority 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 Business Services 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 debarring 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 Business Services, after consultation with the Authority’s Attorney 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 Business Services, after consultation with the Authority’s Attorney 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 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 Business Services 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 Business Services 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 Business Services shall issue a written decision with
respect to the debarment or suspension within thirty (30) days of his 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 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 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 Business Services 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 Business Services to the Board by requesting a review, in writing, with the Authority within five (5) days of the Director of Business Services'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 Business Services 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 Business Services 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.

(3) Decision. If such a controversy is not resolved by mutual agreement, the Director of Business Services shall promptly issue a decision in writing within thirty (30) days of his 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 Purchasing. Procurement conducted by, or on behalf of, more than one Public Procurement Unit.

(2) 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 Purchasing

7-201 Cooperative Purchasing Authorized.

The Director of Business Services, subject to the review and approval by the Deputy General Manager-Finance & Administration, may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of Supplies, Services, or Construction with one or more Public Procurement Units in accordance with an agreement entered into between the participants. 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 Business Services 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 Business Services 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 Business Services 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 Business Services 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.