



## **SANFORD AIRPORT AUTHORITY PROCUREMENT POLICY** **FOR COMMODITIES AND SERVICES**

### **I. GENERAL INFORMATION**

**A. PURPOSE.** The purpose of this Procurement Policy for Commodities and Services (“Procurement Policy”) is to codify and publish a uniform and transparent set of standards governing the procurement activities at the Sanford Airport Authority consistent with applicable state and federal law.

**B. INTENT.** This Procurement Policy is intended to:

1. Provide for fair and equitable treatment of all persons involved in public procurement by the Authority;
2. Maximize the procurement value of public funds;
3. Foster full and open competition for public procurement when appropriate;
4. Promote increased public confidence that contracts are awarded equitably and economically; and
5. Provide safeguards to ensure the quality and integrity of the Authority’s procurement operations of the Authority as well as specific ethical consideration for vendors.

**C. SCOPE.** This Procurement Policy will apply to the Authority’s purchase of commodities and contractual services, provide approved authorization levels for the Authority as to procurement decisions, detail the process to be followed for a procurement and amend the process available to the public to protest a procurement.

### **D. DEFINITIONS**

1. “Airport” means the Orlando Sanford International Airport which is owned by the City of Sanford, Florida and leased to the Authority.
2. “Authority” means the Sanford Airport Authority, a dependent special district created by the Florida State Legislature under Chapter 71-924 in 1971 to provide administration and operation of the Airport.

3. "Authority Contract" shall mean that Contract or Contracts that are created and approved by the Authority.
4. "Best Value" means the highest overall value to the Authority based on factors that include, but are not limited to, price, quality, design, and workmanship.
5. "Board of Directors" means, the governing body composed of nine-members appointed by the Sanford City Commission to direct the policies and operations of the Authority.
6. "Commodity" means any of the various supplies, materials, goods, merchandise, food, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure that has less than 5,000 square feet of floor space, purchased, leased, or otherwise contracted for by the state and its agencies. The term also includes interest on deferred-payment commodity contracts approved pursuant to Section 287.063, Florida Statutes, entered into by the Authority for the purchase of other commodities. However, commodities purchased for resale are excluded from this definition. Printing of publications shall be considered a commodity if procured pursuant to Section 283.33, whether purchased for resale or not.
7. "Competitive Solicitation" means the formal process of requesting and receiving two or more sealed bids, proposals, or replies from Responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.
8. "Contract" shall mean a written agreement which provides obligations on the Authority other than simply paying a set price for a specific Commodity or Contractual Service.
9. "Contractual service" means the rendering by a Vendor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. The term does not include a contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of a facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.

10. “Electronic Posting” or “Electronically Post” means the noticing of solicitations, Authority decisions or intended decisions, or other matters relating to procurement on a centralized Internet website designated by the Authority for this purpose.
11. “Extension” means an increase in the time allowed for the contract period, not to exceed 6 months and is subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties. There may only be one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the contractor.
12. “Governmental Entity” means a political subdivision or agency of any state of the United States, including, but not limited to, state government, county, municipality, school district, nonprofit public university or college, single-purpose or multipurpose special district, single-purpose or multipurpose public authority, metropolitan or consolidated government, separate legal entity or administrative entity, or any agency of the Federal Government.
13. “Informal Bid” means a competitive bid, price quotation, or proposal for supplies or services that is conveyed by a letter, fax, email, or other manner that does not require a formal sealed bid or proposal, public opening, or other formalities.
14. “Internal Procurement Procedures” means procedures to monitor and implement this Procurement Policy, to be created and updated by the CFO.
15. “Invitation to Bid” means a written or electronically posted solicitation for competitive sealed bids. The invitation to bid is used when the procurement agent is capable of specifically defining the scope of work for which a contractual service is required or when precise specifications defining the actual commodity or group of commodities is required.
16. “Invitation to Negotiate” means a written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services.
17. “Proposer” means those potential Responsive vendors who may submit a bid, response, or reply to a Competitive Solicitation.
18. “Renewal” means contracting with the same Vendor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal. Contracts may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever is longer. Renewal of a contract is subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties. If the contract was awarded by the solicitation of bids, proposals, or replies, the price for the renewal must have been specified in the bid,

proposal, or reply, except that the Authority may negotiate lower pricing. A renewal contract may not include any compensation for costs associated with the renewal.

19. "Request for Information" means a written or electronically posted solicitation for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the Authority to form a binding contract.
20. "Request for Proposals" means a written or electronically posted solicitation for competitive sealed proposals. The request for proposals is typically used on more demanding and complex projects where experience and approach are considered in addition to, or instead of, price and when requesting that a Responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. Only one (1) vendor is selected with which to commence negotiations consistent with the solicitation and submitted proposal.
21. "Request for Qualifications" means a written or electronically posted solicitation for competitive sealed responses used to obtain statements of the qualifications of potential responders. Requests for qualifications are often associated with multi-step procurement processes.
22. "Request for Quotations" means a process to solicit two (2) or more price quotes on commodities or contractual services with standard specifications and valued under the threshold requiring the formal competitive solicitation process. Quotations may be obtained verbally or via facsimile or e-mail. Request for Quotes can be obtained from a state Term contract vendor for commodities or contractual services also on a state Term contract from that vendor.
23. "Responsible vendor" means a vendor that has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
24. "Responsive Bid," "Responsive Proposal," or "Responsive Reply" means a bid, or proposal, or reply submitted by a Proposer that conforms in all material respects to the solicitation.
25. "Responsive vendor" means a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.
26. "Standard Terms and Conditions" shall mean those terms and conditions developed and created by staff in consultation with legal counsel to be published on a centralized Internet

website designated by the Authority.

27. “Term contract” means an indefinite quantity contract to furnish commodities or contractual services during a defined period.
28. “Vendor” means an entity that contracts to sell commodities or contractual services to an agency.

#### **E. APPROVAL AUTHORITY.**

1. No person, unless authorized to do so under this Procurement Policy, may make any purchase or enter into any Contract on behalf of the Authority.
2. The Authority shall not make any purchase or procure any service, unless there is a budget line item available to make such purchase or procurement. Compensation paid under any awarded contract is subject to the availability of funding as approved by the Authority. The procurement of Commodities or Contractual Services may not be divided so as to avoid the Competitive Solicitation required by Level 4 or the requirements for quotations in Levels 2 or 3.
3. All purchases exceeding \$65,000, except for utilities, government fees, and taxes will be authorized by the Board of Directors. All Contracts requiring Board of Director’s award will be prepared by the President, Chief Executive Officer (CEO) or designee. Extensions or renewals of Contracts that equal or exceed Board level authorization must be approved by the Board of Directors with the exception of previously approved contracts containing extensions or options to renew providing there is a continuing requirement, satisfactory performance, and funding is available.
4. The Board of Directors has the authority to approve all purchases and award all Contracts pertaining to Authority business except as otherwise provided for in state or federal law. The Board of Directors by resolution, amendment to this Procurement Policy, or other official action may delegate procurement and contract approval to other Authority officials. Any Authority employee, as defined in Section 112.3145, Florida Statute, given the authority to make purchases exceeding the threshold amount provided for in Section 287.017, Florida Statutes must file the required statement of financial interest.
5. The Executive Vice President/Chief Financial Officer (CFO) or designee has the ultimate authority to oversee the enforcement and compliance with this Procurement Policy and may adopt such Internal Procurement Procedures consistent with this Procurement Policy to fulfil the procurement functions.
6. For all procurements using state and federal grants, where not inconsistent, this

Procurement Policy should be followed and supplemented by the terms of the state and federal grant. Where there may be an inconsistency, the terms of the state and federal grant shall control.

7. The Authority hereby designates the authority to procure commodities and contractual services, using the solicitation method described below and subject to Internal Procurement Procedures, at the following value of purchases as set forth in the chart below:

<b>Value of Purchase</b>	<b>Solicitation Method</b>	<b>Authority to Approve</b>	<b>Remarks</b>
<b><u>Level 1-</u></b> Up to \$2,499	No quote required.	Director or Department Manager	Internal Procurement Procedures apply to the purchase.
<b><u>Level 2-</u></b> \$2,500 - \$9,999	Two verbal or written quotes required.	Director or Department Manager	Quotations are to be obtained by the issuing department and Internal Procurement Procedures apply to the purchase.
<b><u>Level 3-</u></b> \$10,000 - \$64,999	Three written Quotes required.	Executive Vice President or Chief Executive Officer	Issuing Department to obtain quotes and Internal Procurement Procedures apply to the purchase.
<b><u>Level 4-</u></b> \$65,000 and over	Competitive Solicitation	Board of Directors	Unless otherwise exempted per this Procurement Policy, purchases will be subject to a Competitive Solicitation facilitated by the Procurement Agent.

## **II. MECHANISM FOR SELECTION OF COMMODITIES AND SERVICES**

**A. PROCUREMENT SOLICITATION THRESHOLDS.** Except as otherwise provided for in state or federal law, the Authority's solicitation thresholds are as follows:

**1. Level 1- (up to \$2,499):**

- a.** Subject to the Internal Procurement Policy, for a Level 1 Purchase, a Director or Department Manager is authorized to procure a Commodity or Contractual Service.
- b.** A Director or Department Manager is not authorized to execute any Contract, unless it is an Authority Contract as approved by the Board or a Contract approved by the Authority's Procurement staff in consultation with the Authority's legal team, when appropriate. The procurement for this Level 1 Commodity or Contractual Service is subject to any Standard Terms and Conditions as provided in this Procurement Policy.

**2. Level 2- (\$2,500 to \$9,999):**

- a.** Subject to the Internal Procurement Policy, for a Level 2 Purchase, a Director or Department Manager is authorized to procure a Commodity or Contractual Service after obtaining two informal written quotations, written records of telephone quotations, or Request for Quotations to be opened upon receipt. The quote determined to be the best value to the Authority shall be selected.
- b.** A Director or Department Manager is not authorized to execute any Contract, unless it is an Authority Contract as approved by the Board or a Contract approved by the Authority's Procurement staff in consultation with the Authority's legal team, when appropriate. The procurement for this Level 2 Commodity or Contractual Service is subject to any Standard Terms and Conditions as provided in this Procurement Policy.

**3. Level 3- (\$10,000 to \$64,999):**

- a.** Subject to the Internal Procurement Policy, for a Level 3 Purchase, an Executive Vice President or the Chief Executive Officer is authorized to procure a Commodity or Contractual Service after obtaining three written Quotes required. The quote determined to be the best value to the Authority shall be selected. If award is made to other than the lowest priced quotation, the procurement file should include a brief explanation for the award decision.

- b. If the Authority receives less than two written quotations, it must document why additional quotes were not received. If the Authority determines that commodities or contractual services are available only from a sole source, the Authority may proceed with the procurement without soliciting quotes, consistent with this Procurement Policy.
- c. If after receiving the quotations or informal bids it is determined that the purchase price exceeds \$65,000, the Authority will reject all quotes and procure the Commodity or Contractual Service as a Level 4 Competitive Solicitation, unless the Commodity or Contractual Services are exempt pursuant to this Procurement Policy.
- d. An Executive Vice President or the Chief Executive Officer is not authorized to execute any Contract, unless it is an Authority Contract as approved by the Board or a Contract approved by the Authority's Procurement staff in consultation with the Authority's legal team, when appropriate. The procurement for this Level 3 Commodity or Contractual Service is subject to any Standard Terms and Conditions as provided in this Procurement Policy.

4. **Level 4- (\$65,000 and over):**

- a. Except as otherwise authorized for in state or federal law or by this Procurement Policy, Commodities and Contractual Services reasonably estimated to exceed \$65,000 in a given fiscal year are subject to Competitive Solicitation. Competitive Solicitations may include Invitation to Bid (ITB), Request for Qualifications (RFQ), and Request for Proposals (RFP) as provided in Section II, B through H of this Procurement Policy.

## **B. COMPETITIVE SOLICITATIONS**

1. **Invitation to Bid (ITB).** The Invitation to Bid method is used to procure commodities and services with a well-defined, finite scope. This method can be used for a single purchase or multiple year contracts. Awarded to the lowest responsive, responsible Proposer.
2. **Invitation to Negotiate (ITN).** The Invitation to Negotiate means a written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services.
3. **Request for Information (RFI).** The Request for Information is a written or



electronically posted request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the **Authority** to form a binding contract. The RFI is part of a multi-step process and may result in an ITB or RFP.

4. **Request for Proposals (RFP).** The Request for Proposal is used to solicit proposals from providers (Proposers) for goods and services. Price is usually not a primary evaluation factor. It provides for the negotiation of all terms, including price, prior to contract award and may include a provision for the negotiation of best and final offers.
5. **Request for Qualifications (RFQ).** The Request for Qualifications is issued to obtain statements of the qualifications of potential responders (development teams or consultants) to gauge potential competition in the marketplace. The RFQ is part of a multi-step process and may result in an ITB, RFP or direct negotiation.

### **C. COMPETITIVE SOLICITATION PUBLICATION**

1. The Authority will make any competitive solicitation available simultaneously to all vendors, and in the publicized notice, include:
  - i. The product or services to be solicited;
  - ii. The location of where the solicitation documents can be accessed;
  - iii. The time and date for the receipt of bids, proposals, or replies; and
  - iv. The date and time of the public opening.
2. Notice of competitive solicitations must be published at least once in a newspaper of general circulation and must be also issued electronically.
3. The Authority will utilize one (1) or more online distribution services provider(s) to distribute notifications of competitive solicitations to vendors, which will be linked to the Authority website for general public access.
4. Competitive solicitations other than an RFI require notification to the Board of Directors prior to being advertised and posted for general public access.

### **D. COMPETITIVE SOLICITATION RESPONSE OPENING**

All Competitive Solicitation responses will be opened virtually and be open to the public at

the time specified within the competitive solicitation documents. The competitive solicitation response opening will acknowledge receipt of all solicitations received and the opening will be witnessed by at least one (1) Authority staff member.

#### **E. COMPETITIVE SOLICITATION RESPONSE REJECTION**

The CFO or designee has the discretion to reject any and all responses to a Competitive Solicitation including those solicitations for which there is only one (1) Responsive vendor.

#### **F. COMPETITIVE SOLICITATION RESPONSES**

If less than two (2) responsive Competitive Solicitation responses are received, the CFO will determine whether or not to move forward with the one (1) submission or reject the response. The CFO will document the reasons that continuing with the sole Proposer is in the best interest of the Authority in lieu of re-soliciting proposals.

1. After award by the Authority, no solicitation may be withdrawn by the Proposer except due to a material error as determined by the Authority.
2. Sealed bids, proposals, or replies in response to a competitive solicitation are exempt from public inspection or copying as provided in Section 119.071, Florida Statutes. When documents are no longer exempt, they may be inspected and copied. In no case may the original copies be removed from the custody of the Authority.
3. The Authority, in its sole discretion, may waive minor irregularities in solicitations or may reject all solicitations.
4. No competitive solicitation reply will be accepted after the deadline. Verbal responses or responses by facsimile, telegram, or e-mail do not meet the criteria as a sealed bid, proposal, or response and will not be accepted. All responses to solicitations must have an authorized signature by the Proposer.

#### **G. COMPETITIVE SOLICITATION AWARD**

1. **Invitation to Bid.** Except as provided for in the Procurement Policy, if an award is made, the bid will be awarded to the responsible and responsive Proposer offering the lowest price.
2. **Request for Proposal.** If an award is made, the contract will be awarded to the responsive and responsible Proposer whose proposal is determined, in the Authority's exclusive discretion, to be the most advantageous to the Authority, taking into

consideration price, qualifications, and other factors as indicated in the RFP.

3. **Request for Qualification.** The Request for Qualifications is issued to obtain statements of the qualifications of potential responders (development teams or consultants) to gauge potential competition in the marketplace. The RFQ is part of a multi-step process and may result in an ITB, or RFP.

## **H. IDENTICAL/TIE LOW BIDS**

In the event two or more identical bids are received when the dollar award is a criterion, the Proposers will be contacted and asked if they wish to reduce their bid in writing by submitting a new bid in a sealed envelope to be opened at the time and place stated by Authority staff.

In the event that the tied Proposers decline to re-submit a bid or the re-submittal results in a tie, the successful Proposer will be selected by applying the following criteria in the following order:

1. Designation as a disadvantaged business enterprise (DBE) through certification by the State of Florida Office of Supplier Diversity, or designation as a certified DBE or ACDBE firm through the Florida Unified Certification Program (UCP directory).
2. Designation as a veteran business enterprise through certification by the State of Florida Department of Management Services.

## **I. EXCEPTION TO QUOTATIONS OR THE COMPETITIVE SOLICITATION REQUIREMENTS**

Notwithstanding anything in this Procurement Policy to the contrary, the Authority may make certain purchases without the requirement for quotations or the use of the Competitive Solicitation, under the following conditions:

### **1. Sole Source Purchases**

Sole source purchases may be made without the solicitation of quotes or the use of the Competitive Solicitation when the CFO can substantiate that the required purchase is highly specialized or proprietary, or when no other authorized vendor can supply the required commodities and services. Written justification must be provided for all sole source purchases and the sole source purchases must be Electronically Posted at least 72 hours prior to entering into a Contract.

2. **Government and Cooperative Contract Pricing**

Government and Cooperative contract pricing may be used in lieu of the solicitation of quotes or the Competitive Solicitation when commodities or contractual services are purchased through the following procuring entities and where such Contracts were procured using a full and open solicitation process substantially consistent, with the Authority's Procurement Policy or in compliance with Section 287.057, Florida Statute.

3. **Emergency Purchases**

When a situation threatens the safety of employees or passengers, the operation of the Airport, or Airport property, an emergency purchase may be necessary to mitigate the situation. Upon written declaration by the CEO or designee that such an emergency situation exists, the emergency purchase may be made without advertisement, but with as much competition as is practicable under the circumstances. Purchasing cards may be used for emergency purchases. Within five business days of the emergency purchase, the CEO or designee will provide the CFO with written justification for the emergency purchase and any approved invoices or receipts. If the emergency purchase requires a company to provide services on Airport property, the requesting department will be responsible for obtaining a copy of the company's insurance certificate. Any emergency purchase in excess of \$65,000 must be presented to the Board of Directors for ratification at the next possible Board of Directors meeting.

4. **Utilities, Employment, Government Fees and Taxes**

The Authority is subject to certain recurring, mandatory expenditures that are part of the day-to-day operations of the Authority and are reflected in the Authority's annual budget as line items. These expenditures are not subject to the Competitive Solicitation and include:

- i. Utilities (sewer, solid waste, water, electricity, natural gas);
- ii. Federal, state and local taxes;
- iii. Hiring Employees of the Authority;
- iv. When required by state or federal law; and
- v. Intergovernmental Agencies.

## **5. Memberships in Professional Organizations**

To enhance the Authority's knowledge and performance, the Authority participates in professional organizations. Memberships in these organizations are recurring expenditures that are paid based on the annual membership fee amounts specified by each organization and are not subject to a Competitive Solicitation.

## **6. Exemptions**

The Authority reserves the right to waive the requirement for quotations and competitive solicitations for the procurement of items that are exempt under Section 287.057(3), Florida Statutes, when it is determined to be in the Authority's best interest.

## **J. CHANGE ORDERS AND AMENDMENTS**

Contract and professional services agreements awarded by the Board of Directors may contain provisions to allow for modifications to the plans, specifications, bid quantities; basis or amount of payment; contract sum; or contract time. When the cumulative total of spend on the purchase of commodities or contractual services exceeds \$65,000, all modifications to the Contracts or agreements must be approved by the Board of Directors and signed by the CEO or designee in the form of a change order or amendment to the Contract documents. The various modifications to the Contracts include, but are not limited to, change orders, construction change directives, written orders for minor work, supplemental agreements, quantity adjustments, work orders, extra work, amendments and authorizations.

The CFO or designee has the authority to execute amendments to Contracts to reflect a change to the company's name due to assignments, mergers, or re-organization of the company.

## **K. CONE OF SILENCE**

To ensure a proper and fair evaluation, the Authority has established a Cone of Silence applicable to the Competitive Solicitation, including RFIs, RFPs, RFQs, and ITBs. The cone of silence is designed to protect the integrity of the procurement process by shielding it from undue influences. The cone of silence will be imposed on the Competitive Solicitation beginning on the date of the solicitation posting on the Authority's website and ending with an award or decision prescribed in the Sanford Airport Authority's Procurement Policy.

The cone of silence prohibits any communications regarding a specific RFI, RFP, RFQ, or ITB between:

1. A potential respondent, including its representative(s) (which includes vendors, service providers, Proposers, lobbyists and consultants), and Authority staff or Authority consultants engaged to assist the Authority on a specific RFP, RFQ, or ITB, except for communications with the Authority's procurement agent or other supporting procurement staff responsible for administering the procurement, provided the communication is strictly limited to procedural matters of the Competitive Solicitation.
2. A potential respondent including its representative(s) (which includes vendors, service providers, Proposers, lobbyists and consultants), and a Board member.
3. A potential respondent including its representative(s) (which includes vendors, service providers, Proposers, lobbyists and consultants), and any member of the evaluation committee or negotiation team.
4. A Board member and any member of the evaluation committee or negotiation team.

Unless specifically provided otherwise in the applicable solicitation document, in addition to the exceptions set forth above, the cone of silence does not apply to:

1. Oral communications at the pre-proposal or pre-bid conference.
2. Oral communications during publicly noticed evaluation committee meetings that are specifically for presentations, demonstrations, or interviews.
3. Oral communications during publicly noticed negotiation meetings.
4. Oral communications during any duly noticed Board meeting.
5. Communications relating to protests made in accordance with this Procurement Policy.

Notice of the cone of silence requirements will be included in all Competitive Solicitation documents. The notice will include the name and phone number of the Authority's procurement agent to whom communications regarding procedural matters of the Competitive Solicitation can be made. The notice will also include a statement that any violation of the cone of silence by a respondent and their representative(s) may void its response as well as any resulting contract awarded to them.

## **L. ETHICS**

Authority employees must comply with the following principles and standards for ethical behavior in business dealings:

1. Comply with the letter and spirit of the laws governing the procurement function including applicable federal and State rules and regulations and Authority policy and remain alert to the legal ramifications of procurement decisions.
2. Represent the Authority in an exemplary manner by diligently following the lawful instructions of the Authority, using reasonable care and only the authority granted, and avoiding the intent and appearance of unethical or compromising practices in relationship, actions, and communications.
3. Buy without prejudice, seeking to obtain the maximum ultimate value for each dollar of expenditure and encouraging all segments of society by extending an opportunity to participate to minority and small businesses.
4. Handle information that may be considered confidential or proprietary to the Authority and/or its suppliers with due care and proper consideration of ethical and legal ramifications and government regulations.
5. Prohibit soliciting or accepting gifts and gratuities from present or potential suppliers which might influence or appear to influence procurement decisions; to subscribe to and work for honesty and truth in buying and selling; and to denounce all forms and manifestations of commercial bribery pursuant to Section 112.3148, Florida Statutes, related to reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and procurement employees.
6. Refrain from any private business or professional activity that may present a conflict of interest or that would reasonably create the appearance of conflict of interest in carrying out the procurement duties assigned by the Authority.
7. Should any employee of the Authority or Proposer have a question or concern regarding any ethical issue under the terms of this Procurement Policy, they are authorized to discuss the question or concern with the General Counsel for the Authority, or their designee.

## **M. CONSULTANT’S COMPETITIVE NEGOTIATION ACT (CCNA)**

Notwithstanding any provision of this Procurement Policy to the contrary and except as precluded by law, contracts for professional services will be procured in accordance with the Consultant's Competitive Negotiations Act (CCNA), Section 287.055, Florida Statutes, as applicable. In accordance with the requirements of the CCNA, consultants for professional services will be evaluated upon their qualifications for the work, including, but not limited to, such factors as the ability of professional personnel, past performance, workloads, and location of the firm.

## **III. COMPETITIVE SOLICITATION BID PROTEST POLICY**

### **A. INTRODUCTION**

As the Authority is not an Executive Agency of the State it is not subject to the Bid Protest procedures in Chapter 120, Florida Statutes, but it has adopted the following Bid Protest process. This Bid Protest Policy replaces all prior policies enacted by the Authority, including, but not limited to, Resolution 2005-01A.

This Procurement Policy is the sole administrative remedy for challenging an award of a solicitation or proposal. Except as provided in this Bid Protest Policy, Offerors are prohibited from attempts to influence, persuade, or promote the award of the contract at issue. Such attempts will be cause for suspension or debarment in accordance with this Procurement Policy.

### **B. PUBLICATION OF DECISION OR INTENDED DECISION.**

1. The Authority shall provide notice of a decision or intended decision concerning a Level 4 solicitation by electronic posting on the Authority’s website. The notice shall contain the following statement:

**“Failure to file a protest by 5:00 p.m., Eastern Standard Time (EST), on the fifth business day after posting of the “Notice of Intended Decision” on the Authority’s website with respect to the award of the solicitation, or failure to post the bond or other security required by policy, within the time allowed for filing a bond shall constitute a waiver of proceedings.”**

2. Any person that is affected adversely by an intended decision with respect to the award of any solicitation that allows the filing of a protest, must file with the Authority a formal written protest with respect to the award of the solicitation no later than 5:00 p.m., Eastern Standard Time (EST), five (5) business days after posting of the “Notice of Intended Decision” on the Authority’s website.



3. “Decision or intended decision” means:
  - a. Intention to award a contract as indicated by a posted solicitation tabulation or other written notice; or
  - b. A determination that a specified procurement can be made only from a sole source.
4. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the written protest shall be filed in writing within five (5) business days after the posting of the solicitation.
5. Failure to file a formal written protest shall constitute a waiver of proceedings under this Procurement Policy and the Authority shall be free to proceed to contract with the Vendor identified in the notice of a decision or intended decision.

### **C. FILING OF WRITTEN PROTEST**

1. Upon filing a formal written protest, the protester must post a bond, payable to the Authority, in an amount equal to two percent (2%) of the total of the proposal, or ten thousand dollars (\$10,000) whichever is greater. Said bond must be conditioned upon the payment of all costs which may be adjudged against the protester in the event of an adverse determination of the protest. In lieu of a bond, the Authority may accept a cashier’s or certified check, or money order in the above referenced amount. If, after completion of the administrative hearing process and any court or appellate court proceedings, the Authority prevails, it will be entitled to recover from the offeror appealing the decision all costs and charges, which will be included in the final order or judgment, including attorney’s fees and costs. Upon payment of such costs and charges by the offeror appealing the decision, the bond, cashier’s check, or money order will be returned to such offeror. Failure to submit a bond, cashier’s check, or money order simultaneously with the formal written protest shall invalidate the solicitation protest, at which time the Authority may continue its procurement process as if the solicitation protest had never been filed.
2. The formal written protest must state the basis of the protest and must contain, at a minimum, the following:
  - a. Authority solicitation identification number and title;
  - b. Name and address of the proposed recipient of the solicitation award (the affected party);
  - c. The name and address of the protester, and the title or position of the person submitting the solicitation protest;

- d. A statement of disputed issues of material fact. If there are no disputed material facts, the written protest must so indicate;
  - e. A statement indicating the relief to which the protester deems him/herself entitled;
  - f. A concise statement of the facts alleged and of the rules, regulations, statutes, and constitutional provisions entitling the protester to relief; and
  - g. Such other information as the protester deems to be material to the issue.
3. Upon receipt of the formal written protest that has been timely filed, the Authority shall stop the solicitation or contract award process until the subject of the protest is resolved by final Authority action, unless the CEO sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

#### **D. SETTLEMENT MEETING.**

The Authority shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 business days, after receipt of a formal written protest.

#### **E. FORMAL PROCEEDINGS PROCESS.**

- 1. If the subject of a protest is not resolved by mutual agreement within seven (7) business days after receipt of the formal written protest, and if there is a disputed issue of material fact, any formal written protest to an intended solicitation award filed in compliance with these policies will be referred to the Authority's Procurement Dispute Committee for review. The Procurement Dispute Committee shall be responsible for reviewing all procurement protests at a hearing and make recommendations to the CEO.
- 2. The Procurement Dispute Committee will be comprised of between three (3) and five (5) people, which may include staff members of the Authority and members of the general public selected for their technical expertise. Member(s) of the public participating in an advisory capacity will not be a voting member(s). The CFO, or his/her designee, shall be the chair of the Procurement Dispute Committee and shall select the other members of the Procurement Dispute Committee. The Authority's legal representative may attend the solicitation protest hearings to provide legal counsel but will not be a voting member of the Procurement Dispute Committee.
- 3. The Authority will facilitate the conduct of the hearing. Staff, experts, and professionals involved with the solicitation may also attend to provide professional/technical advice and recommendations to the Committee.

4. The Procurement Dispute Committee will conduct a hearing with the protester and the Authority within fifteen (15) Authority work days, or as soon as the Authority deems practical following receipt of the formal written protest. No discovery is allowed. Subject to reasonable time limitations, the hearing will at a minimum consist of the following:
  - a. Opening statement by the protester.
  - b. Response by the Authority.
  - c. Presentation of any evidence by the protester.
  - d. Presentation of any evidence by the Authority.
  - e. Closing Remarks by the protester.
  - f. Closing remarks by the Authority.
5. At the conclusion of the hearing, the Procurement Dispute Committee will review the basis of the protest and all additional evidence submitted by the protestor, evaluate the facts and the merits of the protest, and prepare written findings of facts and conclusions. The Procurement Dispute Committee will prepare a recommendation for the CEO.
6. Within three (3) business days, the CEO will issue a determination on the protest. The CEO's decision shall be conclusive.
7. Should the protestor be unsuccessful in its protest, the Authority shall be entitled to all of its costs (including attorneys' fees), charges, or damages associated with any delay of the award or any internal costs incurred as a result of defending the solicitation protest. These costs, charges, or damages may be deducted from the security provided by the protester pursuant to this Procurement Policy. Any costs, charges or damages assessed in an amount greater than the security bond must be paid by the protester within thirty (30) calendar days of the determination thereof.
8. Nothing in this Section is intended to affect the existing powers of the Authority to settle actions pending before the courts.

#### **F. BID PROTEST PROCEDURES.**

1. In a protest to an invitation to bid or request for proposals procurement, no submissions made after the bid or proposal opening which amend or supplement the bid or proposal shall be considered.

2. In a protest to an invitation to negotiate procurement, no submissions made after the Authority announces its intent to award a contract, reject all replies, or withdraw the solicitation which amend or supplement the reply shall be considered.
3. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed Authority action.
4. The standard of proof for such proceedings shall be whether the proposed action was clearly erroneous, contrary to competition, arbitrary, or capricious.
5. Prior to the commencement of a formal protest proceeding, the Authority may take informal disposition of any bid protest by unilateral corrective action, stipulation, agreed settlement, or consent order.