



## PROCEDURES AND GUIDELINES

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**PROCEDURE:** SOP 1215  
**TITLE:** Procurement Code  
**RESPONSIBILITY:** Director, Procurement Services  
**REVISION DATE:** August 1, 2023  
**REVIEW DATE:** August 1, 2023

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### PROCEDURAL CONTENT:

1. Definitions
  2. Purpose and Objectives
  3. Procurement Organization
  4. General Provisions
  5. Specifications
  6. Supply Management
  7. Small and Emerging Business Program
  8. Vendor Responsibility, Suspension, and Debarment
  9. Protests and the Procurement Appeals Board
  10. Forms
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### PURPOSE:

The purpose of this Procurement Code is to establish policies and procedures for an effective, efficient, and fiscally responsible procurement program.

### ARTICLE 1 DEFINITIONS

- 1) **Advantageous** – A judgmental assessment of what is in the best interests of JAXPORT.
- 2) **Agent** - One vested with authority to act for another, called a principal.
- 3) **Award** - The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder, proposer, or offeror.
- 4) **Best and Final Offer (BAFO)** – In a competitive negotiation, the final proposal submitted after negotiations are completed that contains the proposer’s most favorable terms for price, services, and products to be delivered.
- 5) **Bid** - The response submitted by a bidder in response to an Invitation to Bid (ITB) or a multi-step bid.



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- 6) **Blanket Order** - An agreement which allows for repetitive purchases of goods and/or services over a set period of time. Based on the dollar amount and/or quantities requested, all Blanket Orders are subject to the solicitation procedures listed herein (formal or informal - whichever may apply).
- 7) **Brand Name or Equal Specification** - A specification limited to one or more items by manufacturers names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet JAXPORT requirements and which provides for the submission of equivalent products.
- 8) **Brand Name Specification** - A specification limited to one or more items by manufacturers names or catalog numbers.
- 9) **Business** - Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- 10) **Change Order** - A modification to an existing purchase order, blanket purchase order, contract, or agreement. A written purchase order, blanket purchase order, contract or agreement signed and issued by the Director of Procurement Services, directing the contractor to make changes.
- 11) **Commodities and Services** - Included in this category are inventory parts, equipment, fleet vehicles, MRO (Maintenance, Repair, and Operations) type services, such as but not limited to electrical, plumbing, and fencing, consulting services, equipment leases, fuel, and other purchases, not related to construction or capital improvements.
- 12) **Competitive Solicitation or Solicitation** - Shall include without limitation an ITB, RFPs, and/or RFQs.
- 13) **Confidential Information** - Any information which is available to an employee only because of the employee's status as an employee of JAXPORT and is not a matter of public knowledge or available to the public on request.
- 14) **Construction** - The process of building, altering, repairing, improving, or demolishing any JAXPORT structure or building, or other improvements of any kind to any JAXPORT real property by the Senior Director of Engineering and Construction. The item does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings or real property.
- 15) **Contract** - Any agreement, regardless of style or form, for the procurement of construction services, professional services as defined by Section 287.055, Florida Statutes, contractual



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services, equipment, or commodities.

- 16) **Contract Amendment** - Any written alteration of a valid contract by mutual action of the parties to the contract.
- 17) **Contractor** - Any person performing work for JAXPORT.
- 18) **Cost Data** - Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- 19) **Cost-Reimbursement Contract** - A contract under which a contractor is reimbursed for costs in accordance with the contract terms, the provisions of this Code, and a fee or profit.
- 20) **Debarment** - The process by which a vendor is temporarily or permanently disqualified from current and future business opportunities with JAXPORT because of current or previous misconduct, default, poor performance, damages, or other circumstances whereby JAXPORT has determined it to be in its best interest to refrain from further business with the entity(ies) so debarred.
- 21) **Design-Bid Build** - Means a project delivery method or approach involving the sequential award of separate contracts, the first for architectural, engineering, or professional design services to design a project, and the second for construction of the project in accordance with the design(s) resulting from the previously awarded contract.
- 22) **Design-Build** - Means a project delivery method approach involving a single contract for both the design and construction of a project. Upon approval of the Competitive Sealed Proposal, the award of a single design-build contract may, in addition to the design and construction of the project, include the financing, operation and/or maintenance of the project over a contractually defined period.
- 23) **Design-Build Firm** – Means a joint venture, partnership, corporation, or other legal entity that: a) is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or is certified under Section 471.023, Florida Statutes, to practice or offer engineering; certified under Section 481.219, Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319, Florida Statutes, to practice or to offer to practice landscape architecture.
- 24) **Design Criteria Package** – Means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the design criteria package is



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to furnish sufficient information to permit design-build firms to prepare a bid or a response to a department's RFP, or to permit a department to enter into a negotiated design-build contract. The design criteria package must specify performance based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions of utilities, stormwater retention and disposal, and parking requirements applicable to the project.

- 25) **Design Criteria Professional** – Means a firm who holds a current certificate of registration under Section 481, Florida Statutes, to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under Section 471, Florida Statutes, to practice engineering and who is employed by or under contract with JAXPORT for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package (A Design Criteria Professional, its subconsultants and subcontractors may not be awarded the design-build contract for which it prepared the Design Criteria Package).
- 26) **Disadvantaged Business Enterprise (DBE)** - A small business company: (a) which is at least fifty-one (51%) percent owned by one or more socially or economically disadvantaged individuals or, in the case of any publicly owned business, at least fifty-one (51%) percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individual owners.
- 27) **Dividing Purchase Requirements** - Issuance of multiple purchase orders exceeding the bidding threshold limits and signing authority levels established, thus bypassing the informal or formal bid process. Making multiple purchases during a short period of time from the same supplier without proper competition as required in the Procurement Code.
- 28) **Emergency Purchase** - Purchase of goods or services without complying with the procurement regulations contained in this Code, due to conditions existing that are a threat to public health, welfare, or safety, or disruptions or stoppages of operations that could cause an economic loss to JAXPORT, its customers or tenants. These conditions must have been unforeseen and non-preventable in nature, and which required emergency action.
- 29) **Employee** - An individual drawing a salary or wages from JAXPORT.
- 30) **Established Catalog Price** - The price included in a catalog, price list, schedule or other form that:
  - (a) Is regularly maintained by a manufacturer or contractor;



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- (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 categories of buyer or buyers constituting the general buying public for the supplies or services involved.
- 31) **Excess Supplies** - Any expendable or non-expendable supplies having a remaining useful life but which are no longer required by the using department.
- 32) **Expendable Supplies** - All tangible supplies having an original acquisition cost of \$5,000 or less per unit and a probable useful life of less than three (3) years.
- 33) **Final Agency Action** - A final decision that results from a proceeding hereunder, and includes actions which are affirmative, negative, injunctive, or declaratory in form.
- 34) **Financial Interest**
- (a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received or is presently or in the future entitled to receive any financial amount;
  - (b) Ownership of 5% or more of any property or business; or
  - (c) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.
- 35) **Formal Purchases** - The procurement of supplies and/or services where the estimated costs or fees thereof exceed the following thresholds established by reference to Florida Statutes:
- (a) Supplies, equipment, contractual services and commodities where the estimated cost thereof shall exceed \$25,000 or such higher sum as may be provided from time to time under applicable law requiring formal advertising, in accordance with Section 10(2), JAXPORT Charter.
  - (b) Professional Design Services as defined by the Consultants' Competitive Negotiation Act where the basic construction cost is estimated to be in excess of \$325,000 or for a planning fee estimated to exceed \$35,000 or such higher sum as may be provided from time to time under applicable law requiring formal advertising, in accordance with Florida statute 287.017.
  - (c) Construction and or Capital Improvements, Professional Services, where the estimated cost thereof shall exceed \$50,000 or such higher sum as may be provided from time to time under applicable law requiring formal advertising, in accordance with section 10(1), JAXPORT Charter.
- 36) **Informal Purchases** – A purchase of supplies, professional services, contractual services, professional design services or capital improvements, where the estimated costs or fees thereof do not exceed the applicable formal thresholds amounts, as detailed in the table



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found in Section 4- 106(13) herein.

- 37) **Government Body** - Any authority, department, commission, council, board, bureau, committee, institution, legislature, agency, government corporation, or other establishment or office of the executive, legislative, or judicial branch of any government within the United States of America.
- 38) **Grant** - A furnishing by a governmental body of assistance, whether financial or otherwise, to any person or entity to support a project authorized by law.
- 39) **Gratuity** - A present; a gift for more than nominal value.
- 40) **Invitation to Bid (ITB)** – All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- 41) **Jacksonville Small Emerging Business (JSEB)** – A Small Business Certified under Chapter 126, part 6B, Jacksonville Ordinance Code. A JSEB may also be certified as a Minority Business Enterprise (MBE) if it meets certain prescribed categories.
- 42) **Lead Time** - The period of time from date of ordering to the date of delivery which the buyer must reasonably allow the supplier to deliver goods.
- 43) **May** - Denotes the permissive.
- 44) **Must** - Denotes the imperative.
- 45) **Non-expendable Supplies** - Also referred to as tangible personal property, these are supplies with an original acquisition cost of \$5,000 or more and a probable useful life of three (3) years or more.
- 46) **OEM** - Original equipment manufacturer.
- 47) **Person** - Any natural or artificial person, business, union, committee, club, other organization, or group of individuals.
- 48) **Practicable** - What may be accomplished or put into practical application.
- 49) **Prime Contractor** - Any person who has a contract with JAXPORT to build, alter, repair, improve, or demolish any structure or building, or perform other improvements of any kind to any JAXPORT real property.
- 50) **Procurement** - The sourcing, buying, purchasing, renting, leasing, or otherwise acquiring



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of any supplies, services, capital goods, or construction, including all functions that pertain thereto such as the description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

- 51) **Procurement Process** - Has the same meaning as “contract solicitation or award process.”
- 52) **Professional Services** - The definition of professional services is taken directly from Section 287.055, Florida Statutes, which is commonly referred to as the Consultants’ Competitive Negotiation Act (CCNA). “Professional design services” includes those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping as defined by the laws of the State of Florida. Professional services in a general sense means those services where the value of services is measured by the professional competence of the person or entity performing them and which are not susceptible to realistic competition by cost of services alone. Unless otherwise provided in the Procurement Code, professional services will generally include, certified public accountants, audit services, attorneys, financial, political, personnel, technological, systems, planning, and management consultants and insurance brokers for purposes of consulting, structuring coverage and procuring insurance.
- 53) **Protest** - A complaint about a procurement decision that seeks relief from JAXPORT.
- 54) **Purchasing Agent** - 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, such as a Purchasing Agent or Director of Procurement Services.
- 55) **Qualified Products List** - An approved list of supplies, services, or construction items described by model or catalog numbers, which prior to competitive solicitation, appears to meet the applicable specification requirements.
- 56) **Real Property** - Consists of land, buildings, and improvements to land and leasehold improvements of a permanent nature.
- 57) **Regulation** - A statement of general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedure, or practice requirements, which has been lawfully promulgated.
- 58) **Request for Bids** - A solicitation document used in procurement, which does not allow for negotiations with bidders after bids are opened and which bases award of contract on lowest price.
- 59) **Request for Proposals** - A solicitation document used in procurement which reserves the





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right to discuss offers with proposers and to evaluate proposals on both prices and qualitative factors.

- 60) **Request for Quotation** - A solicitation document used in procurement to request pricing for informal purchases. The quotes received are offers that the buyer will accept with or without confirmation or discussion with offerors.
- 61) **Responsible Bidder or Proposer** - A bidder or proposer who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance. Performance under previous contracts may be considered in determining responsibility, as may evidence of a bidder or proposer's conviction of a Public Entity Crime.
- 62) **Responsive Bidder or Proposer**- A bidder or proposer who has submitted a bid, which conforms in all material respects, to the requirements set forth in the ITB or RFP.
- 63) **Sealed Bid** - Offer submitted in response to an ITB, which does not allow negotiations with bidders and evaluation of bids is based on quantifiable factors, such as price, delivery time, freight, etc.
- 64) **Sealed Proposal** - Offer submitted in response to an RFP, which allows for negotiations with proposers, and evaluation of proposals is based on factors other than price, some of which may be subjective, and may be weighted by rank of importance.
- 65) **Services** - 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 services provided pursuant to employment agreement or collective bargaining agreements.
- 66) **Shall** - Denotes the imperative.
- 67) **Single Source** - Characterized as the one and only source, such as a patented and manufactured products and services offered for sale in a non-competitive market or solely by a manufacturer's authorized dealer. Source refers to supplier or manufacturer, not item requested.
- 68) **Small and Emerging Business** - A United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.





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- 69) **Specifications** - Refer to any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms “specification” and “purchase description” are used interchangeable throughout this Code.
- 70) **Supplier** – The person or business unit actually performing services, or manufacturing, producing, or shipping supplies required by the contract. The seller of goods.
- 71) **Supplies** - Tangible personal property owned by JAXPORT as well as expendable supplies with an acquisition cost less than \$5,000 or with an expected useful life less than three (3) years.
- 72) **Supply Contract** - A form of contract covering long-term requirements which is used when the total quantity required cannot be fixed definitely but can be stated with maximum and minimum limits with deliveries on demand.
- 73) **Surplus Supplies** - Includes both expendable and non-expendable supplies that are no longer of any use to JAXPORT. This includes obsolete items, scrap materials, items with no economic life remaining, and items damaged beyond economic feasibility to repair.
- 74) **Supplier List** - List of suppliers whose specifications have been reviewed by the Purchasing Agent and appear to be capable of meeting the requirements of providing goods or services. This list does not refer to consultants, construction contractors, or other contractors, which will be added after award of a contract.
- 75) **Tangible Personal Property** - Also referred to as non-expendable supplies, are furniture, fixtures, equipment of other property of a non-consumable nature, the value of which is \$5,000 or more, and a normal expected life of three (3) years or more.
- 76) **Using Department** - Any department of JAXPORT requiring supplies, services, or construction procured pursuant to this Code.
- 77) **Women and Minority Business Enterprise (W/MBE)** – Is defined by the Jacksonville Small and Emerging Business Enterprise (JSEB) program as a certified firm that meets the certifying agency requirements and that at least one of the following categories applies to the qualifying owner(s): (i) Black/African American; (ii) Hispanic American; (iii) Native American; (iv) Asian American; or (v) Woman.



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### ARTICLE 2

#### PART A – PURPOSE AND OBJECTIVES

##### 2-101 Purpose and Interpretation

- 1) **Interpretation.** This Code shall be construed and applied to promote its underlying purposes and objectives.
  
- 2) **Purpose.** The purpose of this Code is:
  - (a) Provide standards, procedures and policies for the procurement of the goods and services necessary for the accomplishment of JAXPORT's duties and responsibilities;
  - (b) Establish uniform procurement practices throughout the organization and permit the continued development of policies;
  - (c) Build public confidence in JAXPORT's procurement practices;
  - (d) Ensure that fair, equitable, ethical, and transparent competition exists for those who desire to do business with JAXPORT;
  - (e) Prevent abuses and favoritism, while promoting the most economical, effective and efficient use of JAXPORT resources in procuring the highest quality of goods and services to and in the best interest of JAXPORT; and
  - (f) Safeguard the overall quality and integrity of the procurement process.
  
- 3) **Annual Review and Employee Acknowledgment.**
  - (a) This Procurement Code (SOP 1215) will be reviewed at least once per year. Documentation of the review will be recorded and saved by the Director. Review includes annual audit feedback, any legislative updates to Florida Statutes, and revision to any procedures requiring update.
  - (b) Annually, the Procurement Code (SOP 1215) will be formally acknowledged by all user departments. The formal acknowledgement mitigates risk by providing attestation or receipt and comprehension of the Procurement Code. Copies of the Procurement Code acknowledgement will be maintained by HR.

##### 2-102 Application

This Code applies to Procurement activities and contracts for JAXPORT solicited or entered into after the effective date of this Code. It shall apply to every expenditure of funds by JAXPORT for procurement irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or state contract funds, the procurement shall be conducted in accordance with the mandatory applicable federal and state law and regulations.



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### PART B – PUBLIC RECORDS

#### Public Access to Procurement Information

#### 2-103 Public Access to Procurement Information

Procurement information shall be a public record to the extent provided in Section 119.07, Florida Statutes, and shall be available to the public as provided in such Statutes.

### ARTICLE 3

#### PROCUREMENT ORGANIZATION

#### 3-101 Appointment of a Purchasing Agent

- 1) **Establishment of Position.** There is hereby created the position of Purchasing Agent. Such position does not refer to a specific job title, but rather to creation of express authority to contract on behalf of JAXPORT within the limits provided in the JAXPORT Charter.
- 2) **Appointment and Tenure.** The Purchasing Agent shall be appointed by the Chief Executive Officer. The Purchasing Agent shall be appointed to serve an indefinite term. Acceptance of this appointment acknowledges agreement to comply with all regulations. The Chief Executive Officer may withdraw the appointment at any time, without regard to any termination of an employment position. Violations of JAXPORT's terms may result in personal liability for the individual, as well as, disciplinary action by JAXPORT.

#### 3-102 Appointment of a Principal Procurement Official

- 1) **Principal Procurement Official.** The Director of Procurement Services shall hereinafter serve as the Principal Purchasing Official or Purchasing Agent. The Chief Executive Officer may appoint other individuals to negotiate specific types of contracts or to purchase goods and services, with the participation of the Purchasing Agent as necessary.
- 2) **Assigned Duties of Purchasing Agent.** In accordance with this Code, and subject to the supervision of the Chief Executive Officer or designee, the Purchasing Agent or the Director of Procurement Services shall:
  - (a) Manage the general procurement, award, transfer, recycle, surplus and sale of supplies and services required by JAXPORT and its departments, in accordance with this Code;
  - (b) Direct and manage the day to day inventory control, fulfillment and replenishment of JAXPORT's warehouses;
  - (c) Procure the highest quality of supplies, contractual services, professional services, and capital improvements at the greatest economic value to, and in the best interest of, JAXPORT;
  - (d) Establish and maintain standards for specification development, contract administration, and inspection, and acceptance in cooperation with the departments



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- using the supplies or services; and
  - (e) Keep informed of pricing, market conditions, products, innovation, best practices and current developments in the field of procurement and contracts management.
  - (f) Perform such other duties and responsibilities as may be assigned by the Chief Executive Officer or his/her designee.
- 3) **Regulations and Operational Procedures.** Consistent with this Code, and with the approval of the Chief Executive Officer, the Purchasing Agent:
- (a) Shall have the authority and responsibility to develop procedures concerning the procurement process, inventory control and management for warehouses, and disposal of any surplus supplies and services;
  - (b) May use the Consumer Price Index (CPI) as a factor in determining any annual increase of its contracts with tenants, suppliers or contractors, the Director maintains sole discretion in selecting the appropriate CPI.

### **3-103 Delegations to Other JAXPORT Employees**

The Purchasing Agent may not delegate authority to purchase supplies or services to other JAXPORT employees unless specifically authorized by the Chief Executive Officer and within the limits of approved and budgeted funds, in accordance with Management Policy No. 39 "Approval Authorizations," and the most current, approved Signing Authority Matrix.

### **3-104 Unauthorized Purchases**

Except as herein provided, it shall be a violation of this Code for any JAXPORT employee to purchase or make any contract in the name of or on behalf of JAXPORT, other than through the Purchasing Agent or as an appointed buyer in accordance with Management Policy No. 39 "Approval Authorizations." JAXPORT shall not be bound by any purchase order or contract made contrary to the provisions herein.

- 1) Any person who spends or authorizes the expenditures of any money or who transfers or authorizes the transfer of any funds or expense credits or who purports to incur or authorize the incurring of any liability or enters into or authorized the making of any contract, which by its terms involves the expenditure of any money, on behalf of JAXPORT in any case in an amount in excess of the amount appropriated for such purpose and remaining at the time unencumbered, unexpended and un-impounded or in any amount contrary to the purpose for which such funds or expense credits were appropriated shall be personally liable for such excess or such amount:
  - (a) to the holder of the indebtedness;
  - (b) to JAXPORT;
  - (c) to the extent that JAXPORT has paid or is required by law or court order to pay such indebtedness; or
  - (d) for that amount of the funds or expense credits transferred or expended contrary to the purpose for which such funds or expense credits were appropriated which



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cannot be otherwise recovered by JAXPORT.

- 2) Any person who approves issuance of multiple informal purchase orders in a total amount exceeding the formal purchase thresholds for any one (1) project shall be considered to have performed unauthorized purchases.
- 3) If multiple informal purchase requirements are known to exceed any of the informal purchasing thresholds, the user or department must submit a request under the formal solicitation process.

### **3-104-1 Procedures for Disposition of Unauthorized Purchases**

- 1) Any purchase which Procurement considers to be in violation of this Code and/or the JAXPORT Charter, will be forwarded back to the Department Director via a memorandum or letter indicating the reason for improper action. Upon receipt of notification of Unauthorized Purchase, the Department Director will forward to Procurement Services by memorandum or letter setting forth the following:
  - (a) brief description of the circumstance involved;
  - (b) corrective action taken or to be taken to prevent recurrence; and
  - (c) recommend disposition as to payment.
- 2) Upon receipt of disposition recommendation of Unauthorized Purchase, Procurement Services will request approval from the Chief Executive Officer or designee, before processing any unauthorized purchases for payment.
- 3) Once approval is obtained from the Chief Executive Officer or designee, Procurement Services will proceed to process the purchase order for payment.
- 4) Procurement Services will maintain a special file of all unauthorized purchase actions directed by the approving authority.
- 5) Refer to JAXPORT SOP 1101, Human Resources (Discipline), for disciplinary action regarding violations of the Procurement Code.

### **3-105 Exemptions**

The following supplies, contractual services, professional design services, professional services, capital improvements, and/or sales transactions are exempt from competitive solicitation:

- 1) artistic services or performances;
- 2) printed copyrighted materials;
- 3) lectures by individuals;



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- 4) health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration
- 5) supplies, services or commodities provided by governmental entities or agencies;
- 6) supplies or services to be provided by those specifically prescribed within authorizing legislation that appropriates the same;
- 7) supplies or services procured utilizing General Services Administration (GSA), State of Florida and other contracts and agreements that have been competitively procured, awarded and contracted by federal, state, municipal, county, or local governmental entity, body politic, or using department, provided that said procurement is not otherwise prohibited by law;
- 8) contracts with independent contractors or consultants for temporary augmentation of staff services. Augmentation of staff services may include any services previously undertaken by JAXPORT staff, as well as independent contractors or consultants that will address specific staffing needs when the required skill sets may not currently exist or be readily available. To the extent that this exception applies to professional services as defined by the Consultants' Competitive Negotiation Act (CCNA) it would only be when the contract value falls below the CCNA threshold. (Note: this exception applies to locally funded contracts only. All state and federally funded projects must follow the procurement guidelines provided by the funding source.);
- 9) employee training and job-related seminars and related fees when funded by JAXPORT (local funding only);
- 10) the procurement of real property;
- 11) the procurement of the following and similar items: dues and membership fees in trade or professional organizations, subscriptions for periodicals, advertisements, postage, abstracts of titles for real property, closing costs and processing fees for acquisitions, title insurance for real property, deeds, judgements, debt service, mortgagee(s), collective bargaining agreements, salaries, taxes, water, sewer, electrical and communications utility services, and copyrighted books and videos;
- 12) damage claims – commodities, services, or construction quoted at less than \$25,000 require only one quotation to address the damage claim(s) assessed and agreed to be the responsibility of an external party, including vendors, contractors, tenants, customers, or other JAXPORT visitors. Damage quotes exceeding \$25,000 must follow the established



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process as outlined in this Code;

- 13) JAXPORT hosted events that are sponsored by or in partnership with external agencies, vendors, contractors, customers, tenants, or others where costs will be reimbursed in part (greater than 50% of total costs) or in total by one or more sponsors; and
- 14) Sponsorships and charitable contributions given in JAXPORT's name, in the best interest of JAXPORT, and in accordance with the Signing Authority Matrix; and
- 15) Merit Committee event venue tickets or space/room rental fees.

### ARTICLE 4 GENERAL PROVISIONS PART A – METHODS OF ADVERTISING

#### **4-101 Advertising Bids, Proposals or Qualifications to Award Contracts, Conditions for Use**

The purpose of this procedure is to authorize the Chief Executive Officer or his/her designee to advertise for bids, proposals, or qualifications and to make awards in accordance with Charter provisions.

Section 10 of the JAXPORT Charter requires a formal advertisement for certain contracts and purchases where the total cost or value exceeds \$25,000 for supplies, contractual services, and goods or commodities and \$50,000 for construction-related services, construction contracts, or capital improvements and, in other instances, when practical and when in the best interest of the public to advertise. In addition, all professional services as defined by Section 287.055, Florida Statutes, will be advertised where the basic construction cost is estimated to exceed \$325,000 or the planning or study activity fee exceeds \$35,000. Applicable contracts of other government agencies for the same scope of services or goods may be used if in the best interests of JAXPORT. The procedures set forth below will help ensure that all Charter and legal requirements are met and that adequate records are maintained to document such actions.

The advertisement or solicitation for bids, proposals or qualifications will be made only by Procurement Services. Where the procedures refer to "Chief Executive Officer," it is to be understood that the action may also be completed by an individual designated in writing by the Chief Executive Officer.

#### **4-101-1 Contracts to be Advertised Preparation of Solicitations**

- 1) The department requiring goods, services, professional services (non- CCNA), where the total exceeds the formal bidding thresholds of \$25,000 for supplies, contractual services, maintenance, repairs, and operations (MRO), equipment, inventory parts, or commodities,





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professional services as defined by Section 287.055, Florida Statutes, when the basic construction cost is estimated to exceed \$325,000 or the planning or study activity fee exceeds \$35,000, and/or \$50,000 for construction contracts and/or capital improvements, will submit their request for a solicitation to Procurement Services. This request will include a general description of the goods or services to be solicited, an estimate of the cost, justification of the need for procurement, expected benefits, and indicate if the goods or services are budgeted. If not budgeted, the request will need to be approved by the Chief Executive Officer before being advertised.

- 2) Procurement Services will prepare, with the assistance of the requesting department, the solicitation documents. The requesting department will prepare specifications and assist in determining solicitation schedule, including the expected budget and completion date.
- 3) Procurement Services will determine the Small and Emerging Business goals, if any, to be established and if applicable, the appropriate language to be included in the specifications. Risk Management will review the scope of services and provide the appropriate insurance amounts and indemnification language.
- 4) Before placing legal notices, the Director of Procurement Services or his/her designee will review and approve issuing the solicitation document. Procurement will place the advertisement, at least once a week for two (2) consecutive weeks before the award of any contract, in a newspaper published and having a general circulation in the county; and in other such newspapers or publications and digital platforms as the Authority shall deem appropriate.
- 5) Procurement Services shall conduct the pre-proposal/pre-bid meetings (with the participation of the requesting department to review the project requirements and answer technical questions), issue any addenda, open the proposals/bids, and schedule any evaluation committee meetings.

### **4-101-2 Evaluation of Solicitations**

The process of evaluating responses to solicitations may require that any discussions of bids/proposals are subject to Section 286.011, Florida Statutes, (Government in the Sunshine Law). If an employee, in the normal course of his/her position, evaluates a bid/proposal, and no other individuals are a part of that analysis (other than to individually evaluate some aspect of the submittal), then the evaluation process is not subject to the public meeting requirements. However, if two (2) or more evaluation committee members meet or discuss the evaluation of submittals, this meeting or discussion is subject to the public meeting requirement. If a public meeting is required, the provisions of the law require that the meeting be open to the public, reasonably noticed, recorded or minutes taken.



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### 1) **Evaluation of Solicitations that Require a Public Meeting**

- (a) The Director of Procurement Services, with input from the Chief Executive Officer, will name individuals from his/her organization to serve on the Evaluation Committee. The Committee will be chaired by Procurement Services, who may suggest that other personnel serve on the Committee as considered necessary or beneficial. The Chief Financial Officer will be informed of the solicitation document and will determine if a representative(s) from any of the Finance Department should serve on the committee or provide advice in a certain area. The total voting members of the Evaluation Committee should be no less than three (3) and more than five (5) members. Procurement will advise all members on the Evaluation Committee of the solicitation schedule and provide them with a copy of the solicitation package. Committee members should attend pre-proposal/pre-bid meetings, offer suggestions for amendments and be available for questions from Procurement Services. Procurement will arrange for the public meeting notice, recording the meeting, and minutes.
- (b) The Evaluation Committee will complete an independent evaluation of the proposals and prepare an award recommendation. If a Small and Emerging Business goal was established, Procurement Services will review each proposal received to determine if the goal was attained and advise the Evaluation Committee of its findings.
- (c) The award recommendation and matrix, in the format of an agenda item, will be forwarded to the Director of Procurement Services for review and approval. The award recommendation will then be forwarded to the Manager of Procurement Services for inclusion the next scheduled meeting of the Awards Committee and Board meeting, if applicable.

### 2) **Evaluation of Solicitations that DO NOT Require a Public Meeting**

- (a) Procurement Services will determine if the apparent low Bidder or the Proposer has conformed to the minimum requirements of the solicitation documents and is responsive and responsible. If a Small Emerging Business goal was established, Procurement Services will review each proposal/bid received to determine if the Small Emerging Business goal was attained and advise of the results.
- (b) The award recommendation and matrix, in the format of an agenda item, will be forwarded to the Director of Procurement Services for review and approval. The award recommendation will then be forwarded to the Manager of Procurement Services for inclusion on the next scheduled meeting of the Awards Committee and the Board meeting, if applicable.

#### **4-101-3 Awards Committee**

- 1) The Awards Committee will consist of the five (5) members appointed by the Chief Executive Officer, or his/her designee, if they are unable to attend a meeting. One of the



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appointed members will act as Chair of the Awards Committee on a rotating basis. The Manager of Procurement Services will serve as Secretary to the Awards Committee. A quorum will consist of three (3) members, none of whom may vote on an award for which they were a member of the Evaluation Committee. The Awards Committee is subject to Section 286.011, Florida Statutes, requiring that all meetings must be open to the public, reasonably noticed, recorded, or minutes taken. The recording or the minutes will be retained in the solicitation electronic folder. Procurement Services will include in solicitations the location where the public notices will be posted.

- 2) The Awards Committee will meet on a regular basis to approve procurement transactions (original contract(s) with or without a contingency; change orders) in the not to exceed amount of \$500,000. Change orders that are within a previously approved contingency (by the Awards Committee or the Board) or less than \$500,000 do not require subsequent approval by the Awards Committee. Only recommendations distributed to the committee, no later than three (3) business days prior to the scheduled meeting, will be considered to allow committee members sufficient time to review the material. A written agenda will be prepared by the Secretary to the Awards committee, listing all actions to be considered. The agenda with attachments will be sent to each member of the Awards Committee and the Chief Executive Officer.
- 3) Members of the Awards Committee have the responsibility of ensuring a proper solicitation process, as delineated in this Code, has been followed for each contract presented to the committee for action. Additionally, committee members are encouraged to consider such concepts as consistency of terms in similar contracts, whether the contract submitted supports the overall strategies of JAXPORT and whether the pricing proposed is in the best interest of JAXPORT.
- 4) Procurement transactions that come before the Awards Committee valued in excess of \$500,000 will be forwarded with a recommendation for approval to the Board of Directors. The Board shall approve all procurement transactions (original contract(s) with or without a contingency; change orders) in excess of \$500,000. Change Orders that are within a previously Board approved contingency amounts do not require subsequent Board approval. Board-approved contingencies and Board approved change orders are in addition to the spending authority limit of \$500,000 that is delegated to the Chief Executive Officer in accordance with Management Policy No. 39 "Approval Authorizations."
- 5) In the event a monthly Board Meeting is not held, the Chief Executive Officer, in consultation with the Board Chair or his/her designee shall approve such procurement transactions with ratification by the Board at its next scheduled monthly meeting.
- 6) The same rules apply to ratification. This process will be evaluated on an annual basis to



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ensure that neither the operations nor the financial health of the organization is adversely impacted.

- 7) After the Awards Committee has voted to make a recommendation on a contract or has awarded a contract, no further protests will be accepted on any items. If the item is approved, the award submission is forwarded for signature in the following order: the requesting department director, Director of Procurement Services, Secretary of the Awards Committee, Chair of the Awards Committee and the Chief Executive Officer for final approval. Items requiring Board action will be placed on the requisite agenda. For awards requiring formal contracts, documents will be prepared by Procurement Services, reviewed by the Chief, Regulatory Compliance, if applicable, and depending on the dollar amount, forwarded to the requesting department director, and/or the Chief Executive Officer. For other awards, a purchase order or blanket purchase order (BPO) will be prepared by Procurement Services and approved by the requesting department director and/or by the Chief Executive Officer, depending on the amount of the purchase.
- 8) Procurement will complete all required actions, then close out the solicitation file.

### **4-101-4 Ex-Parte Communication Prohibited**

The period of time from the date of the initial advertisement of a solicitation until the Notice of Award is issued will be referred to as the Cone of Silence. During this time, all parties who intend to submit or have submitted a Proposal or Bid are permitted to have direct contact with JAXPORT through Procurement Services only. If the question or comment deals with subject matter that is outside of the responsibility of Procurement Services, Procurement Services will ensure that the question or comment is directed to the appropriate person. All other communication to JAXPORT or any JAXPORT employee, consultant, or Board Member regarding the solicitation is strictly prohibited. JAXPORT reserves the right to disqualify any party who makes or causes to be made, directly or indirectly, any improper communication. Nothing contained in this paragraph prohibits JAXPORT from initiating contact with a proposer and subsequent communication related thereto for the purpose of obtaining additional information that is relevant to a solicitation. Any ex-parte communication concerning the solicitation process denies all proposers or bidders submitting proposals or bids fair, open, and impartial consideration. Adherence to procedures that ensure fairness is essential to the maintenance of public confidence in the value and soundness of JAXPORT's procurement process.

This requirement shall not prohibit:

- 1) Meeting(s) called or requested by JAXPORT that are properly noticed, as applicable, and attended by proposer or bidder teams for the purpose of discussing the solicitation, proposal, or bid;
- 2) The addressing of any elected or appointed governing authority of JAXPORT at public



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meetings advertised and conducted pursuant to, and in compliance with, Section 286.011, Florida Statutes; and

- 3) Contact with elected officials on matters not related to a current, active solicitation.

### PART B - PROCUREMENT METHODS

#### 4-102 Competitive Sealed Bidding

- 1) An Invitation to Bid (ITB) should be used when the dollar value meets the formal threshold as outlined in Section 4-101-1, the specifications are clear, the cost can be accurately estimated, there are an adequate number of contractors or suppliers, and the contractors or suppliers are technically qualified and willing to price the item or service competitively.
- 2) **Preparation and Distribution of an Invitation to Bid (Contract Documents, Specifications and Drawings)**
  - (a) The Consultant or project manager distributes the scope of work, technical specifications and drawings to Procurement Services.
  - (b) Approval of scope of work, specifications, contract documents and drawings must be obtained from the Senior Director of Engineering and Construction or his/her designee or the project manager (non-construction related bids) prior to posting advertisements or public notices for the project.
  - (c) If renewal options are included the price of the renewal must be considered in the award. This may be accomplished by including an escalation or de-escalation clause with a cap.
  - (d) Bonding and insurance limits on any project are reviewed and approved by Risk Management.
  - (e) The Small and Emerging Business Coordinator will review the solicitation to see if there is an opportunity to assign a goal.
  - (f) The scope of work, contract documents, specifications and contract documents consist of the following sections: bid-related documents, contract-related documents, technical specifications, and drawings, if applicable.
  - (g) Invitations to bid, (scope of work, contract documents, specifications, and drawings) are posted on the JAXPORT's website with a link to the electronic bidding platform.
  - (h) A bidders list is maintained by Procurement Services and stored electronically of all contractors or suppliers issued invitations to bid documents (scope of work, specifications, and drawings, if applicable).
- 3) **Invitation to Bid.** An invitation to bid (ITB) document shall be issued and shall include instructions to bidders, specifications, contractual terms and conditions applicable to the procurement. The ITB may incorporate documents by reference provided that the ITB



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specifies where such documents can be obtained. The ITB shall require the acknowledgment of the receipt of all addenda issued.

- 4) **Public Notice.** Public notice of the ITB shall be given in a reasonable time prior to the date set forth therein for opening bids, in accordance with Florida Statutes. Such notice may include publication in a newspaper published and having a general circulation in the county or other printed or electronic media of general circulation with general access a reasonable time prior to bid opening or on the JAXPORT's website if permitted by law. All ITBs must be advertised at least once a week for two (2) consecutive weeks. Construction projects over \$500,000 must be advertised at least thirty (30) days prior to the bid opening. All other invitations to bid must be advertised for a reasonable period as determined by the Director of Procurement Services. The notice shall state the place, date, and time of the bid opening.
- 5) **Pre-Bid Conference.** Pre-bid conferences will be conducted, as deemed necessary, to explain the procurement requirements. These conferences shall be announced to all prospective bidders known to have received or requested an ITB. Nothing stated at the pre-bid conference shall change the ITB unless a change is made by written addendum as provided in Section 4-102(6), (Addenda to ITB), and the ITB, if a pre-bid conference was required therein, or the notice of pre-bid conference shall so provide. If a transcript is made, it shall be a public record.
  - (a) The Pre-Bid meeting may be considered mandatory, when indicated as such in the solicitation documents, in order to submit a bid for a project.
  - (b) The meeting date should not be less than five (5) calendar days before the scheduled bid opening date.
  - (c) Changes or interpretations, or approval of alternative approaches to technical specifications or drawings are not made at the pre-bid meeting. All such responses are to be issued by a formal addendum to all plan holders.
  - (d) A copy of the attendance sheet is to be included with the first addendum.
  - (e) A recording or minutes of the pre-bid meeting is generated and included with the first addendum.
- 6) **Addenda to an Invitation to Bid.** Addenda to an ITB shall be identified as such and shall require that the bidder acknowledge receipt of all addenda issued. The addendum shall reference the portions of the ITB it amends. The bid documents will provide that the bidder has the responsibility for determining if any addenda were issued and failure to do so by the bidder does not release them from responsibility.
  - (a) Addenda are provided to all plan holders of ITB (scope of work, drawings, and/or specifications).
  - (b) Addenda are posted on JAXPORT's website, along with ITB documents, scope of work, specifications, and drawings.





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- (c) Addenda are required to convey any changes, clarifications, or deletions to the drawings, and/or specifications of the ITB documents.
- 7) **Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the public notice of the ITB. The amount of each bid and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder, shall be recorded, and shall be made accessible for inspection by any interested party at the conclusion of the opening. A listing of other persons present at the opening will be obtained and kept with the bid opening records. Sealed bids are not public records subject to the provisions of Section 119.07(1)(a), Florida Statutes, until such time as JAXPORT provides notice of award or within 30 days after opening, whichever is earlier.
- 8) **Bid Review and Acceptance.** Bids shall be unconditionally accepted without alteration or correction except as authorized in this Code. Bids shall be reviewed to determine if the bidder is responsive, responsible, and meets the minimum criteria based on the requirements set forth in the ITB, which may include, but are not limited to, 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 for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The ITB shall set forth the criteria to be used. When awarding a contract, the criteria used may be limited to what is included in the solicitation, except for information which may be considered common knowledge. Late bids will not be accepted.
- 9) **Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids, before or after bid opening, or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by withdrawn by the bidder prior to the time set for bid opening. After bids are opened, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of JAXPORT or fair competition shall be permitted.
- 10) In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw their bid if:
- (a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - (b) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. 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





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determination made by the Director of Procurement Services.

- 11) **Bid Review.** The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the ITB. The ITB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirement or criterion that is not disclosed in the ITB. The responsibility of any bidder will be considered prior to the review of bids and may include any factors deemed appropriate to exercise sound prudent business judgment in the selection.
- (a) **Product Acceptability.** The ITB shall set forth any criteria to be used in determining product acceptability. It may require the submission of product samples, descriptive literature, technical data, or other material. It may also provide for inspection or testing of the product prior to award, examination of elements of the product or other examinations. The purpose of reviewing acceptability is not for the purpose of determining whether one bidder's item is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the ITB. Any bidder's offering which does not meet the acceptability requirements shall be rejected as non-responsive.
  - (b) **Determination of Lowest Bidder.** Following the determination of product acceptability, if any is required, bids will be evaluated to determine which bidder offers the lowest cost to JAXPORT in accordance with the criteria set forth in the ITB. Only objectively measurable criteria, which are set forth in the ITB, shall be applied in determining the lowest bidder.
  - (c) **Restrictions.** Nothing in this Section shall be deemed to permit a contract award to a bidder submitting a higher quality item than that designated in the ITB, if such bidder is not also the lowest bidder, as determined under Paragraph (b). Further, this Section does not permit negotiations with any bidder.
  - (d) **Low Tie Bids.** Low-tie bids are low responsive bids from responsible bidders that are identical in price and which meet all requirements and criteria set forth in the ITB. The award shall not be made by drawing lots or by dividing business among bidders. At the discretion of the Purchasing Agent, the State of Florida's guidelines for such awards may be used. Other factors that may be considered are local preference, distance of delivery, previous awards to the contractor, and social goals (such as Minority Business, drug-free workplace, etc.) as permitted by the funding source.
- 12) **Award.** The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder, whose bid meets or exceeds the requirements and criteria set forth in the ITB. Also, the contract shall be awarded in accordance with the provisions of Bid documents, ITB, including a search of the Excluded Parties List System (EPLS) to ensure that the bidder being awarded a contract is not on the



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suspended or debarred list and is in compliance with State and Federal requirements, where applicable. Refer to the "Capital Construction Checklist" form attached to this Code.

- 13) Awards for less than or equal to \$500,000 will require approval by the Awards Committee and Chief Executive Officer. Awards for over \$500,000 will require approval by the Board of Directors prior to the issuance of a contract.

### 4-103 Competitive Sealed Proposals - Request for Proposals (RFP)

- 1) **Conditions for Use.** When the Purchasing Agent determines that the use of competitive sealed bidding is either not practicable or not advantageous to JAXPORT, a contract may be entered into by use of the competitive sealed proposals method. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in JAXPORT's best interest.
- (a) Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the ITB. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
1. Whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
  2. Whether award may be based upon a comparative evaluation, as stated in the RFP, of differing price, quality, and contractual factors in order to determine the most advantageous offering to JAXPORT. Quality factors include technical and performance capabilities, qualifications of service personnel and contractor facilities, and the importance of references; and
  3. Whether the primary consideration in determining award may not be price.
- (b) A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to JAXPORT to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
1. If prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for JAXPORT; and
  2. Whether the factors listed in Paragraph (a) are desirable rather than necessary, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.
- (c) The Purchasing Agent may make determinations by category of supply, service, or construction item that it is either not practicable or not advantageous to JAXPORT to procure specified types of supplies, services, or construction by competitive sealed bidding. Procurements of these designated categories may then be made by



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- competitive sealed proposals. Such designation may be modified or revoked at any time, and such designation should be reviewed for current applicability from time to time.
- (d) If JAXPORT determines that the use of an ITB will not result in the best value to the Authority, JAXPORT may procure commodities and contractual services by issuing an RFP. The using department's determination must specify reasons that explain why an RFP may be necessary in order for JAXPORT to achieve the best value.
- 2) **Request for Proposals (RFP).** Proposals shall be solicited through a written document called an RFP. It shall include specifications, all contractual terms and conditions applicable to the procurement, and a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions.
- (a) An RFP shall be made available to all suppliers simultaneously and must include a statement of the commodities or contractual services sought; the time and date for the receipt of replies and the public opening; including criteria to be used in determining the acceptability of the reply. If JAXPORT contemplates renewal of the contract, it must be stated on the RFP. The reply shall include the price for each year for which the contract may be renewed. This may be achieved by including an Escalation and De-escalation Clause with a cap on the amount of increase permissible.
- (b) JAXPORT shall evaluate and rank responsive replies against all evaluation criteria set forth in the RFP and shall select based on the ranking order, the first proposer listed as being the most qualified to perform the required services. JAXPORT will award the contract to the most qualified, responsible, and responsive proposer that JAXPORT determines will provide the best value to the Authority. The contract file must contain a short plain statement that explains the basis for supplier selection and that sets forth the supplier's deliverables and price pursuant to the contract, with an explanation of how these deliverables and price provide the best value to JAXPORT.
- (c) Prior to the time for receipt of bids, proposals, or replies, JAXPORT may conduct a conference or written question and answer period for purposes of assuring the supplier's full understanding of the solicitation's requirements. All suppliers shall be accorded fair and equal treatment.
- 3) **Public Notice.** Adequate public notice of the RFP shall be given in the same manner as provided in Section 4-102(4) - Competitive Sealed Bidding, Public Notice.
- 4) **Pre-Proposal Conferences.** Pre-proposal conferences shall be conducted in accordance with Section 4-102(5), Pre-Bid Conference. Any such conference shall be held prior to the submission of initial proposals.



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- 5) **Addenda to Request for Proposals.** Addenda to RFPs may be made in accordance with Section 4-102(6), Addenda to Invitation to Bid, prior to submission of proposals.
- 6) **Receipt of Proposals.** No proposals shall be opened until the time and date designated in the public notice of the RFP. Proposal openings shall be open to the public and should be held at the date, time, and place specified in the solicitation. The opening will be conducted by an employee of JAXPORT and witnessed by at least one other employee. Sealed proposals are not public records subject to the provisions of Section 119.07(1), Florida Statutes, until such time as JAXPORT provides notice of award or within thirty (30) days after opening, whichever is earlier. An electronic proposal summary shall be completed at the opening and shall at a minimum show the names of the respondents. The tabulation may show such additional information as deemed appropriate by JAXPORT.
- 7) **Evaluation Factors.** The RFP shall state the relative importance of price, if appropriate, and other evaluation factors.
- 8) **Discussion/Presentations with Responsible Offerors.** As provided in the RFP, discussions and/or presentations may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for clarification to assure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment concerning discussion and/or presentations that may be permitted after submissions and prior to award to obtain best and final offers. The responsibility of proposers will be considered before discussions and/or presentations are entered into and may include any factors deemed appropriate to exercise sound prudent business judgment in the selection.
- 9) **Award.** An award shall be made to the responsible, responsive offeror whose proposal is determined to be the most advantageous to JAXPORT, taking into consideration the price, evaluation factors, discussion and/or presentations as set forth in the RFP. The contract file shall contain the basis on which the award is made. The contract will be awarded in accordance with the provisions of SOP 1215, Procurement Code, as it pertains to the recommendations of the Awards Committee and final approval by the Chief Executive Officer or Board of Director's.
- 10) **Negotiation with Proposers.** JAXPORT may elect to include in the RFP an opportunity for negotiation of pricing, terms, and conditions. When included, the RFP must reflect the intent to negotiate with one or more responsive proposers in order to receive the best overall value.
  - (a) The Evaluation Committee will evaluate the proposals to establish a competitive range of replies reasonably susceptible of award. JAXPORT will select one or more



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- proposers within the competitive range with which to commence negotiations. The negotiations will not be open to the public; however, minutes will be taken.
- (b) The Chief Executive Officer will appoint a negotiation team who will meet with the selected proposer(s).
  - (c) After the negotiations are complete, the proposers will be allowed to submit a Best and Final Offer (BAFO).
  - (d) The BAFO will be evaluated to determine which offer is in the best interest of JAXPORT.
  - (e) The Award will be made to the responsible and responsive proposer that offers the best overall value to JAXPORT.

### **4-104-1 Competitive Sealed Proposals – Qualification-Based Contracts for Professional Services not Related to Consultants’ Competitive Negotiation Act**

**General.** Professional Services not related to CCNA such as; Information Technology, Software Systems, Security Technology Services, etc. may be procured utilizing the Qualification Based Contracts for Professional Services method when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based solely on price.

- 1) The Director of Procurement Services establishes procedures for administering Qualification Based Contracts for Professional Services not related to CCNA. Such procedures shall include, but not be limited to:
  - (a) Pre-qualification requirements;
  - (b) Public announcement procedures;
  - (c) Scope of service requirements;
  - (d) Statement of Qualifications package requirements.;
  - (e) Short-listing criteria and procedures;
  - (f) Bid proposal requirements;
  - (g) Technical review committee; and
  - (h) Selection and award processes.
- 2) Interested firms shall submit Statements of Qualifications (SOQs) for providing the requested services via a Request for Qualifications (RFQ). Following the initial screening, the Director of Procurement Services will convene the members of the Evaluation Committee that will each independently evaluate and rank each SOQ, in accordance with the evaluation criteria contained in the RFQ. SOQs deemed unresponsive will be returned to the proposer with a brief explanation of the reason for rejection.
- 3) After review and evaluation of the SOQs, a shortlist of a minimum of three (3) proposers will be recommended and forwarded to the Director of Procurement Services for



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approval. Upon approval of the shortlist, those proposers will be notified and will be asked to submit an RFP based on a schedule of events specific to the project. If a shortlisted proposer withdraws from consideration after the RFPs are distributed, JAXPORT may continue if at least one proposal is received.

- 4) Proposals will be segmented into two (2) parts: Technical Proposals and Price Proposals. Technical Proposals and Price Proposals will be received by the date, and time as noted in a schedule of events specific to the project.
- 5) Technical Proposals - A technical proposal will include items such as a detailed project schedule, staffing plan, project approach, submittals timeline, permit requirements, total contract time, and other data requested in response to the RFP. The package shall indicate clearly that it is the technical proposal and shall identify clearly the firm's name, project description, or any other information required on the RFP. The proposer shall not discuss or reveal elements of the Price Proposal in the written Technical Proposal.
- 6) Price Proposals - Price proposals shall include a fixed price or lump sum costs for the services identified in the RFP of the proposed project. The package shall indicate clearly that it is the price proposal and shall identify clearly the firm's name, project description, and any other information required. A Price Proposal shall be submitted in a separate package (with the price proposal sealed) and appropriately labeled as per the schedule of events, listed in the RFP.
- 7) Upon receipt the Evaluation Committee will evaluate all Technical Proposals and if necessary, the Evaluation Committee may request oral presentations of the Technical Proposals with each proposer separately. Proposers will not be permitted to ask questions of the Evaluation Committee except to clarify the meaning of a question posed by the Committee. The Evaluation Committee records the answers to the questions. The Evaluation Committee cannot comment or acknowledge the answers with a positive or negative response, nor talk amongst each other during the oral presentation meeting.
- 8) Upon receipt of technical scores and oral presentations, if applicable, scores from the Evaluation Committee, the Director of Procurement Services will notify all short-listed proposers of the date, time, and location of the public announcement of technical/oral presentation scores, known as Final Technical Score (FTS) and opening of the Price Proposals. At this meeting, the Director of Procurement Services, or designee, will announce the Evaluation Committee's FTS for each proposer. Following the announcement of the FTS, the Price Proposals received timely will be publicly opened. The Price Proposal must then be verified to ensure calculations are accurate for all line items. Once all Price Proposal calculations are verified, the Director of Procurement Services will tabulate the Final Technical Score(s) and Price Proposal(s) amount using the formula below, to





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determine the apparent lowest Adjusted Score (AS). The Director of Procurement Services, will then publicly announce the final Adjusted Scores for all proposers.

$$\frac{\text{Price Proposal (PP)}}{\text{Final Technical Score (FTS)}} = \text{Adjusted Score (AS)}$$

- 9) The proposer to be recommended for an award of a project will be the proposer whose Adjusted Score is the lowest.
- 10) The Director of Procurement Services has the right to correct any errors in the evaluation and selection process that may have been made. JAXPORT is not obligated to award a contract, and the Evaluation Committee may decide to reject all proposals. If the Evaluation Committee decides not to reject all proposals, the contract will be awarded to the proposer with the lowest Adjusted Score.
- 11) The Director of Procurement Services shall submit the list of proposers in rank order to the Awards Committee or the Board. The award shall be made to the proposer whose Adjusted Score is the lowest.
- 12) Professional Services not related to CCNA less than or equal to \$500,000 will require approval by the Awards Committee and Chief Executive Officer, Professional Services not related to CCNA over \$500,000 will require Board of Director's approval prior to the issuance of a Contract.

### **4-103-2 Professional Services Related to Legal Work**

- 1) This Section shall govern the procurement of the following related services used as a part of the legal services performed under the supervision of the Director of Procurement Services, which does not go through the Awards Committee process:
  - (a) Appraisal, acquisition, disposition and/or relocation services in connection with property transactions;
  - (b) Title insurance and abstracts;
  - (c) Court reporters;
  - (d) Expert witness who will or may be called upon to testify in an administrative, quasi-judicial or judicial proceeding on behalf of JAXPORT where the employment is primarily for the purpose of preparation for or presentation at the proceeding;
  - (e) Printing of legal briefs; and
  - (f) Publication of legal advertisements and notices.
- 2) Whenever a department of JAXPORT requires a legal services, the department shall contact the General Counsel of the City of Jacksonville. The General Counsel may employ, supervise and terminate assistant counsels to assist with the efficient provision of legal





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services for JAXPORT. The provision of all outside legal services to JAXPORT shall be in accordance with the terms of an engagement letter authorized and approved by the General Counsel, including but not limited to the scope of the services provided and the maximum indebtedness of JAXPORT's obligations in connection with the engagement. Legal counsel engaged by JAXPORT shall have the authority to engage such related legal services only to the extent that the vendor of such related legal services and the maximum indebtedness of JAXPORT's obligations in connection with such services is approved by the General Counsel and described in the engagement letter.

### 4-104 Multi-Step Sealed Bidding

- 1) **General.** Multi-step sealed bidding is a two-phase process consisting of a technical first phase, composed of one or more steps, in which bidders submit unpriced technical offers to be evaluated by JAXPORT, and a second phase, in which those bidders whose technical offers are determined to be acceptable during the first phase, have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and, at the same time, obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers, and the conduct of discussions to evaluate and determine the acceptability of technical offers.
- 2) **Conditions for Use.** The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may thus be used when it is considered desirable:
  - (a) To invite and evaluate technical offers to determine their acceptability to fulfill the purchase description requirements; and
  - (b) To conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- 3) **Pre-Bid Conferences in Multi-Step Sealed Bidding.** Prior to the submission of unpriced technical offers, a pre-bid conference as described in Section 4-102, Competitive Sealed Bids, shall be conducted by the Purchasing Agent. The Purchasing Agent may also hold a conference of all potential bidders in accordance with Section 4-102(5), Pre-bid Conference, at any time during the evaluation of the unpriced technical offers.
- 4) **Procedure for Phase One of Multi-Step Sealed Bidding**

**Form.** Multi-step sealed bidding shall be initiated by the issuance of an ITB in the form required by Section 4-102, Invitation to Bid, except as hereinafter provided. In addition to the requirements



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set forth in Section 4-102, the Multi-step ITB shall state:

- (a) That unpriced technical offers are requested;
  - (b) Whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
  - (c) That it is a multi-step sealed bid procurement and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
  - (d) The criteria to be used in the evaluation of the unpriced technical offers;
  - (e) That JAXPORT, to the extent the Purchasing Agent finds necessary, may conduct oral or written discussions of the unpriced technical offers; and
  - (f) That the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the ITB. (Bidders may request confidential designation for those portions of the unpriced technical offering that contain information only to be viewed by JAXPORT, such as trade secrets, proprietary data, or other confidential information.)
- 5) **Addenda to the Invitation to Bid.** After receipt of the unpriced technical offers, addenda to the ITBs shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Purchasing Agent, a contemplated amendment will significantly change the nature of the procurement, the ITB shall be cancelled in accordance with Section 4-109, Cancellation of Invitation to Bid or Requests for Proposals, of this Code and a new ITB issued.
- 6) **Evaluation of Unpriced Technical Offers**
- (a) Acceptable;
  - (b) Potentially acceptable, that is reasonably susceptible of being made acceptable; or
  - (c) Unacceptable, the Purchasing Agent shall record in writing the basis for finding an offer unacceptable and make it part of the contract file.

The Purchasing Agent may initiate Phase Two of the procedure if, in the Purchasing Agent's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Purchasing Agent finds that such is not the case, the Purchasing Agent shall issue an amendment to the ITB or engage in technical discussions as set forth in Section 4-104(7).

- 7) **Discussion of Unpriced Technical Offers.** The Purchasing Agent may conduct discussions with any bidder who submits an acceptable or potentially acceptable technical offer. During such discussions, the Purchasing Agent shall not disclose any information derived from any unpriced technical offer to any other bidder. Once



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discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information amending its technical offer at any time until the closing date established by the Purchasing Agent. Such submission may be made at the request of the Purchasing Agent or upon the bidder's own initiative.

- 8) **Notice of Unacceptable Unpriced Technical Offers.** When the Purchasing Agent determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.
- 9) **Mistakes during Multi-Step Sealed Bidding.** Mistakes may be corrected or bids may be corrected or withdrawal permitted in accordance with Section 4-102(9), Correction or Withdrawal of Bids; Cancellation of Awards.
- 10) **Procedure for Phase Two**
  - (a) **Initiation.** Upon the completion of Phase One, the Purchasing Agent shall either:
    1. Open priced bids submitted in Phase One (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
    2. If priced bids have not been submitted, technical discussions have been held, or addenda to the ITB have been issued, invite each acceptable bidder to submit a priced bid.
  - (b) **Conduct.** Phase Two shall be conducted as any other competitive sealed bid procurement except:
    1. As specifically set forth in Section 4-104(1) through this Section;
    2. No public notice need be given of this invitation to submit priced bids, because such notice was previously given; and
    3. After award, the unpriced technical offers of bidders shall be available as public records in accordance with applicable state regulations.

### **4-105 Professional Engineering, Professional Architectural, Landscape Architectural and Registered Land Surveying Services, in accordance with the Consultants' Competitive Negotiation Act (CCNA)**

Qualification based "Professional Services" in accordance with Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act (CCNA). Procedure for advertising, selecting and contracting with one or more than one professional services provider.

#### **Preparation of Solicitations**

- 1) The Engineering Department requiring professional services as defined by Section 287.055, Florida Statutes, where the estimated construction cost exceeds \$1,000,000 or the planning



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or study activity fee exceeds \$500,000 for construction contracts and/or capital improvements, will submit a request for a solicitation to Procurement Services. This request will include a general description of the goods or services to be solicited, an estimate of the cost, justification of the need for procurement, expected benefits, and indicate if the services are budgeted. If not budgeted, the request will need to be approved by the Chief Executive Officer before being advertised.

The Engineering Department requiring professional services for projects with lower thresholds than the limits established for Continuing Contract may submit a request for a solicitation to Procurement Services.

- 2) The SEB Program Coordinator shall be contacted for Small and Emerging Business goals.
- 3) Legal Advertisement will be placed in compliance with Florida Statutes.
- 4) A Request for Statements of Interest & Qualifications for Engineering Services is sent to interested Engineering Firms on the Bidders List (Consultants/Engineers).
- 5) The Director of Procurement Services with input from the Chief Executive Officer appoints an Evaluation Committee.
- 6) The Evaluation Committee should be no less than three (3) and more than seven (7) members. If at any time two (2) or more committee members meet to discuss the evaluation of submittals, this meeting is subject to the public meeting requirements. Florida law requires that the meeting be open to the public, reasonably noticed, and minutes taken.
- 7) A pre-proposal meeting may be required and scheduled accordingly by Procurement Services.
- 8) Proposals are received and distributed to the Evaluation Committee. The responses to the Request for Statements of Qualifications for Professional Engineering Services will be evaluated and ranked according to various criteria such as: certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by JAXPORT, with the objective of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. JAXPORT may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations.



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- 9) The responses to the Request for Statements of Qualifications for Professional Services will be evaluated and ranked by the established Evaluation Committee. The Evaluation Committee submits ordinal rankings of firms being evaluated to Procurement Services.
  - 10) If deemed necessary by the Committee, the top three (3) ranked firms may be required to give public presentations to the Committee. Once the public presentations are completed, the Evaluation Committee submits ordinal rankings of the top three (3) firms to Procurement Services.
  - 11) Upon receiving approval of ordinal rankings and authorization to begin negotiations, Procurement Services will send letters advising respondents of the results of evaluation/selection process.
  - 12) Under the direction of the Chief Executive Officer, the Director of Procurement Services along with the appropriate Senior Director will negotiate rates and charges with one or more of the respondents, beginning with the top ranked firm. In the event that only one firm is to be awarded a contract and should JAXPORT be unable to negotiate a satisfactory contract with the firm ranked number one, at a price JAXPORT determines to be fair, competitive and reasonable, negotiations with that firm will be formally terminated. JAXPORT shall then undertake negotiations with the next most qualified firm or continue negotiations in accordance with ordinal rankings established until an agreement is reached.
  - 13) If JAXPORT fails to receive three (3) proposals in accordance with Section 287.055, Florida Statutes, a phone survey of all plan holders who did not submit a proposal will be conducted. If the results from the survey indicate that, if given additional time to submit a proposal, the likelihood of achieving the required three (3) proposals has increased, the solicitation will be extended. All proposals received to date will remain unopened and the firm(s) submitting said proposals will be given the option to change or withdraw and resubmit their proposals based on the new close date. If the results of the survey indicate that there would be no change, Procurement Services will seek legal guidance and possibly cancel the solicitation.
  - 14) Once negotiations are completed, if the contract to be awarded is less than or equal to \$500,000, the Awards Committee along with the Chief Executive Officer's concurrence will approve the contract scope and negotiated fees. If the contract to be awarded is over \$500,000, the Board of Director's will approve the contract scope and negotiated fees.
  - 15) Awards for contracts for professional services less than or equal to \$500,000 will require approval by the Awards Committee and Chief Executive Officer, contracts over \$500,000 will require Board of Director's approval prior to the issuance of a Contract.



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### 4-105-1 Design-Build Contracts

Design-Build contracts can be procured under the Competitive Proposal “Design-Build” contract, pursuant to the procedures outlined in Section 287.055(9)(c), Florida Statutes, Consultants’ Competitive Negotiations Act (CCNA), which permits the selection of a design-build firm by the use of a Qualifications Based Selection process. The Director of Procurement Services may combine the design and construction phases of a capital project into a single contract. Such a contract is referred to as a design-build contract.

Construction activities may not begin on any portion of such projects for which the Engineering and Construction Department has not yet obtained title to the necessary rights-of-way and easements for the construction of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested in the state when the title has been dedicated to the public or acquired by prescription.

### 4-105-2 Competitive Design-Build Contracts

- 1) JAXPORT may use a design criteria professional employed by JAXPORT or a design criteria professional retained by JAXPORT. If JAXPORT elects to retain the services of a design criteria professional to prepare a design criteria package, then the design criteria professional shall be selected and contracted in accordance with the requirements of Florida law. A design criteria professional, its team including; all sub-consultants/subcontractors who have been selected to prepare the design criteria package shall not be eligible to render Services under the design-build contract executed pursuant to the design criteria package. The design criteria professional shall be available for consultation regarding the evaluation of proposals submitted by design-build firms, for the supervision and approval of detailed working drawings of the project, and for evaluation of the compliance of the project construction with the design criteria package.
- 2) A design criteria package shall be prepared for the design and construction of the design-build project. The purpose of the design criteria package is to furnish sufficient information to permit the design-build firms to prepare a response to JAXPORT’s request for qualifications/RFPs and/or to permit JAXPORT to enter into a negotiated design-build contract. The design criteria package shall specify applicable performance-based criteria for the construction project, which may include, but are not limited to: Legal description for the site, survey information, space requirements, material quality standards, schematic layouts and conceptual design criteria, cost or budget estimates, design and construction schedules, site development requirements, provision for utilities, stormwater retention and disposal and parking requirements. The design criteria package shall be sealed by the selected design criteria professional.
- 3) The Director of Procurement Services with input from the Chief Executive Officer appoints





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- an Evaluation Committee. The Evaluation Committee should be no less than three (3) or more than seven (7) members. If at any time two (2) or more committee members meet to discuss the evaluation of submittals, this meeting is subject to the public meeting requirements. Provisions of this law require that the meeting be open to the public, reasonably noticed and minutes taken.
- 4) A mandatory pre-proposal meeting may be required and scheduled accordingly by Procurement Services.
  - 5) At the date, time, and place specified in the Request for Qualifications (RFQ), a register shall be prepared that lists all responses received. Statements of Qualifications (SOQs) received will be distributed to the Evaluation Committee. The responses to the RFQ will be evaluated and ranked in accordance with the criteria set forth in the RFQ. The evaluation criteria may include, but not be limited to, professional qualifications, availability, and past work of the firms, including the partners or members thereof.
  - 6) After review and evaluation of the SOQs, a shortlist of a minimum of three (3) proposers will be recommended and forwarded to the Director of Procurement Services for approval. Upon approval of the shortlist, those proposers will be notified and will be asked to submit an RFP based on the schedule of events specific to the project. If a shortlisted proposer withdraws from consideration after the RFPs are distributed, JAXPORT may continue, if at least one proposal remains.
  - 7) RFPs shall be solicited from the approved design-build firms determined most qualified. The number of firms solicited shall be no less than three (3).
  - 8) At the date, time, and place specified in the RFP, a register shall be prepared that lists all proposals received. The Evaluation Committee shall review and evaluate each proposal received in accordance with the criteria set forth in the RFP. The Evaluation Committee through Procurement Services may request in writing additional information from any design-build firm for the sole purpose of clarifying the contents of their proposal.
  - 9) The product of the evaluation process shall be a list of the proposals from lowest to highest and confirmation that the proposals meet the requirements of the RFP.
  - 10) The Director of Procurement Services shall submit the list of design-build firms in rank order to the Awards Committee or the Board. The award shall be made to the design-build firm submitting the lowest bid meeting or exceeding the design criteria requirements.
  - 11) The Director of Procurement Services may elect to conduct all steps of the process in one solicitation. That is, the SOQ, technical proposal, and price proposal.





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- 12) If JAXPORT fails to receive three (3) proposals, in accordance with Section 287.055, Florida Statutes, a phone survey of all plan holders who did not submit a proposal will be conducted. If the results from the survey indicate that, if given additional time to submit a proposal, the likelihood of achieving the required three (3) proposals has increased, the solicitation will be extended. All proposals received to date will remain unopened and the firm(s) submitting said proposals will be given the option to change or withdraw and resubmit their proposals based on the new close date. If the results of the survey indicate that there would be no change, Procurement Services will seek legal guidance and possibly cancel the solicitation.
- 13) Design-build contracts less than or equal to \$500,000 will require approval by the Awards Committee and Chief Executive Officer. Design-build contracts over \$500,000 will require Board of Director's approval prior to the issuance of a contract.

### **4-105-3 Adjusted Score "Design-Build" Contracts**

- 1) JAXPORT may use a design criteria professional employed by JAXPORT or a design criteria professional retained by JAXPORT. If JAXPORT elects to retain the services of a design criteria professional to prepare a design criteria package, then the design criteria professional shall be selected and contracted in accordance with the requirements of Florida law. A design criteria professional, its team including; all subconsultants/subcontractors who have been selected to prepare the design criteria package shall not be eligible to render services under the design-build contract executed pursuant to the design criteria package. The design criteria professional shall be available for consultation regarding the evaluation of proposals submitted by design-build firms, for the supervision and approval of detailed working drawings of the project, and for evaluation of the compliance of the project construction with the design criteria package.
- 2) A design criteria package shall be prepared for the design and construction of the design-build project. The purpose of the design criteria package is to furnish sufficient information to permit the design-build firms to prepare a response to JAXPORT's RFQ, for request for project bids, or to permit JAXPORT to enter into a negotiated design-build contract. The design criteria package shall specify applicable performance-based criteria for the construction project, which may include, but are not limited to: Legal description for the site, survey information, space requirements, material quality standards, schematic layouts and conceptual design criteria, cost or budget estimates, design and construction schedules, site development requirements, provision for utilities, stormwater retention and disposal and parking requirements.
- 3) The design criteria package shall be sealed by the selected design criteria professional.



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- 4) The Small and Emerging Business Program Coordinator will be contacted for SEB goals.
  - 5) Legal advertisement will be placed in a newspaper of general circulation and JAXPORT's website.
  - 6) The Director of Procurement Services with input from Senior Management appoints an Evaluation Committee.
  - 7) The Evaluation Committee should be no less than three (3) and no more than five (5) members. If at any time two (2) or more committee members meet to discuss the evaluation of submittals, this meeting is subject to the public meeting requirements. Provisions of this law require that the meeting be open to the public, reasonably noticed and minutes taken.
  - 8) A pre-proposal meeting may be required and scheduled accordingly by Procurement Services.
  - 9) At the date, time, and place specified in the Request for Qualifications (RFQ), a register shall be prepared that lists all responses received. Statements of Qualifications (SOQs) received will be distributed to the Evaluation Committee. The responses to the RFQ will be evaluated and ranked in accordance with the criteria set forth in the RFQ. The evaluation criteria may include, but not be limited to, professional qualifications, availability, and past work of the firms, including the partners or members thereof.
  - 10) After review and evaluation of the SOQs, a shortlist of a minimum of three (3) proposers will be recommended and forwarded to the Director of Procurement Services for approval. Upon approval of the shortlist, those proposers will be notified and will be asked to submit an RFP based on the schedule of events specific to the project. If a shortlisted proposer withdraws from consideration after the RFPs are distributed, JAXPORT may continue, if at least one proposal is received.
  - 11) Proposals will be segmented into two (2) parts: Technical Proposals and Price Proposals. Technical proposals and price proposals will be received by the date and time as noted in a schedule of events specific to the project.
  - 12) Technical Proposals - A technical proposal will include items such as; a detailed project schedule, staffing plan, project approach, submittals timeline, permit requirements, total contract time and other data requested in response to the RFP. The package shall indicate clearly that it is the technical proposal and shall identify clearly the firm's name, project description, or any other information required on the RFP. The proposer should not discuss or reveal elements of the price proposal in the written technical proposal.



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- 13) Price Proposals - Price proposals shall include a price for the services identified in the RFP of the proposed project. The package shall indicate clearly that it is the price proposal and shall identify clearly the firm's name, project description, and any other information required. A price proposal shall be submitted in a separate package (with the price proposal sealed) and appropriately labeled as per schedule of events, listed in the RFP.
- 14) Upon receipt of the Technical Proposals, the Evaluation Committee will review and evaluate all Technical Proposals and if necessary, the Evaluation Committee may request a demonstration/presentation of the Technical Proposals with each proposer separately. The purpose of the demonstration/presentation session is for the Evaluation Committee to seek clarification and ask questions, as it relates to the technical proposal of the proposer. Proposers will not be permitted to ask questions of the Evaluation Committee except to clarify the meaning of a question posed by the committee. The Evaluation Committee records the answers to the questions. The Evaluation Committee cannot comment or acknowledge the answers with a positive or negative response or talk amongst each other during the demonstration/presentation meeting.
- 15) After the technical scores are submitted but prior to the price proposals being opened, the Senior Director of Engineering and Construction along with Procurement Services may elect to meet with the proposers to discuss their technical proposals. These meetings will be considered negotiation meetings for public meeting purposes. They will be closed to the public; however, minutes will be taken.
- 16) Upon receipt of technical scores plus demonstration/presentation scores from the Evaluation Committee, the Director of Procurement Services will notify all short-listed proposer of the date, time, and location of the public announcement of technical/demonstration/presentation scores and opening of the price proposals. On the date and time for the deadline of price proposal submissions, a public meeting will be held, in which the Director of Procurement Services will announce the Evaluation Committee's final technical score for each proposer. The scores of the SOQs will be added to the technical scores, plus the demonstration/presentation scores to equal the final technical score. Following the announcement of the average final technical scores, the price proposals will be opened and announced. Price proposals must then be verified to ensure calculations are accurate for all line items. Once all price proposal calculations are verified, the Director of Procurement Services will tabulate the average final technical scores and price proposal amount using the formula listed below, to determine the proposer with the lowest Adjusted Score (AS).

$$\frac{\text{Price Proposal (PP)}}{\text{Final Technical Score (FTS)}} = \text{Adjusted Score (AS)}$$



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- 17) The Director of Procurement Services will then publicly announce the adjusted scores for all proposers. The proposer to be recommended for award of this project will be that proposer whose adjusted score is the lowest amongst all proposers.
- 18) The Director of Procurement Services has the right to correct any errors in the evaluation and selection process that may have been made. JAXPORT is not obligated to award the contract and the Evaluation Committee may decide to reject all proposals.
- 19) The Director of Procurement Services reserves the right to consider any proposals as non-responsive if any part of the technical proposal or price proposal does not meet established requirements and criteria. Also, if the proposed contract price is greater than the maximum allowable contract price, the proposals will be considered non-responsive.
- 20) The Director of Procurement Services has the right to correct any errors in the evaluation and selection process that may have been made. JAXPORT is not obligated to award a contract, and the Evaluation Committee may decide to reject all proposals. If the Evaluation Committee decides not to reject all proposals, any contract(s) awarded will be to the proposer(s) determined to have the lowest Adjusted Score.
- 21) The Director of Procurement Services shall submit the list of proposers in rank order to the Awards Committee and/or the Board. Award shall be made to the proposer whose adjusted score is the lowest.
- 22) Design-build contracts for less than or equal to \$500,000 will require approval by the Awards Committee and Chief Executive Officer. Design-build contracts over \$500,000 will require Board of Director's approval prior to the issuance of a contract.

#### **4-105-4 Post-Bid, Pre-Award Negotiated Value Engineering**

A project must have initially been publicly advertised for solicitation of bids and the bids procured pursuant to all applicable procurement code criteria. Post-bid, pre-award negotiated value engineering shall only take place with the lowest responsive, responsible bidder for a project under consideration.

The solicited low bid amount must not exceed the remaining available funds for the project development, thus not allowing the encumbrance of a project contract due to limited funding, including reasonable project contingency funds for the project at issue. Negotiated value engineering elements may include changes in construction scope, materials, schedules or any other aspect of the original scope of the project development for which the bid was procured.

Proposed subcontractors performing any subcontracting work on the project at issue may not be



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substituted during negotiations unless the prime contractor shows inability to negotiate financial means or a capability that are in the best interest of the Authority. JAXPORT shall make the final determination on the substitution of any subcontractors. An SEB will not be substituted without the approval of the Director of the Procurement Services.

Post-bid, pre-award negotiated value engineering shall not alter the planned SEB guidelines and criteria that were submitted in the original bid package. The final project award, if approved, shall be in compliance with all applicable SEB guidelines as originally proposed.

A project award letter that is the product of post-bid, pre-award negotiated value engineering and that recommends the award of a project to the Awards Committee shall include a list detailing the results of the negotiations. This list shall include all negotiated project elements and costs as compared to the initial low bid submitted for the project.

### **4-105-5 Progressive Design-Build**

JAXPORT may use a progressive design-build bidding process. This progressive design-build process is a qualifications-based process to select a design-builder and is followed by a process to draft a design and establish a contract price for the final delivered design and build. The progressive design-build process consists of two phases.

1) Phase One:

Consists of the preliminary preconstruction phase where the consultant/contractor prepares design plans for the project (typically consisting of 30%, 60%, and 90% plans), including cost estimates and preliminary construction schedule. At either the 60% or the 90% phase submittal, the consultant/contractor provides a formal proposal for the construction phase to include the total contract price and the construction schedule.

JAXPORT and the consultant/contractor negotiate a final construction price and schedule to include a Guaranteed Maximum Price (GMP).

2) Phase Two:

If a GMP has been successfully negotiated: Referred to as the Final Design and Construction Services. This phase begins when JAXPORT and the consultant/contractor agree upon all terms, including the total contract price (construction cost included) and schedule for project delivery. Once an agreement has been made, the consultant/contractor completes Design Services and moves on to the management of the Construction Services.

If a GMP has NOT been successfully negotiated: The consultant/contractor provides the finalized design plans and specifications to JAXPORT. JAXPORT may proceed with a traditional Design-Bid-Build process or may choose to terminate the process.



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### **4-105-6 Construction Manager at Risk (CMAR) Contracting**

Services may be procured from Construction Management Entities and program management entities in accordance with the provisions of Section 255.103, Florida Statutes. After selection and competitive negotiations, a Construction Management Entity may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and a guaranteed completion date as construction manager “at risk” in accordance with the provisions of Section 255.103, Florida Statutes (a “Construction Manager at Risk” or a “CMAR”).

### **4-105-7 Invitation to Negotiate**

An Invitation to Negotiate (ITN) is a flexible procurement process that is used for highly specialized, variable services and/or commodities. Florida Statute 287.057(1)(c) requires written documentation for this procurement method over the ITB or RFP processes.

The ITN solicitation documents include project targets, mandatory requirements, any special terms and conditions, and an evaluation plan. The standard ITN process includes a Pre-Proposal conference to provide an overview of the project, a question and answer period, a proposal opening, evaluation, and oral presentations. Once completed, finalists receive notification to enter into negotiations. During negotiations, the scope of work and terms are concluded with each finalist and a best and final offer is requested. The evaluation committee evaluates the scope of work for each finalist and the best and final offers to calculate the final scoring. Letters of intent are issued and the final recommendation is submitted to the Awards Committee and Board (as required by dollar value) for approval.

Advertising of ITNs follows the public advertisement process.

ITNs typically require information regarding:

- 1) Expertise & Qualifications – offerors a detailed description of the vendor’s expertise and qualifications related to the scope described in the ITN,
- 2) Risks & Challenges – offerors provide the risks and challenges associated with the scope of the ITN and their mitigation plans,
- 3) Value Add – offerors explain the value adds they bring to JAXPORT beyond the detailed scope, and
- 4) Solution Concept – offerors submit the solution concept proposals to be evaluated by the Evaluation Committee according to the minimum requirements described by JAXPORT.

**Negotiation with Proposers.** The ITN must reflect the intent to negotiate with one or more responsive proposers in order to receive the best overall value.

- 1) The Evaluation Committee will evaluate the solution concept proposals to establish a competitive range of replies reasonably susceptible of award. JAXPORT will select one or more proposers within the competitive range with which to commence negotiations.





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The negotiations will not be open to the public; however, minutes will be taken.

- 2) The Chief Executive Officer will appoint a negotiation team who will meet with the selected proposer(s).
- 3) After the negotiations are complete, the proposers will be allowed to submit a Best and Final Offer (BAFO).
- 4) The BAFO will be evaluated to determine which offer is in the best interest of JAXPORT.
- 5) The Award will be made to the responsible and responsive proposer that offers the best overall value to JAXPORT.

### 4-106 Informal Purchases

- 1) **General.** Any contract not exceeding the dollar amount specified in Section 10, JAXPORT's Charter, or in any amendments to the Charter, may be made in accordance with the informal purchase procedures authorized in this Section.
- 2) **The Purchasing Agent. The Purchasing Agent** shall adopt operational procedures for making informal purchases. Such operational procedures shall provide for obtaining adequate and reasonable competition for the goods or services being purchased. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the informal purchase made.
- 3) **Purchase Requirements.** Purchase requirements shall not be artificially divided to bypass the formal bid process or as to constitute an informal purchase under this Section. Issuance of multiple informal purchase orders in a total amount exceeding the formal purchase threshold is prohibited and any such purchase orders shall be considered unauthorized purchases. If the commodities/services being purchased over the course of one (1) year are known to exceed the limit for informal purchases thresholds \$25,000 for purchases of contractual services, commodities and supplies, or \$50,000 for construction related professional services, professional services, construction and capital improvements, the using department must request that Procurement Services procures commodities/services utilizing the formal bid process. It is improper to make multiple purchases during a short period of time from the same supplier without proper competition as required by this Code.
- 4) **Authorized Usage.** Authorized field personnel may make informal purchases with proper written approval received from the Department's Director. Procurement Services will maintain a list of authorized personnel who are approved to make informal purchases.



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Designated field personnel will be involved in obtaining quotes, entering orders, soliciting suppliers, receiving of goods and services and approval of invoices.

- 5) **Signing Authority.** JAXPORT employees designated to make informal purchases will be responsible for ensuring that all established JAXPORT procedures are followed and all adequate controls are established to protect JAXPORT's interests. The review and approval requirements for quotes obtained will be made in accordance with the signing authority matrix.
- 6) **Solicitation Procedures.** All quotations, written or verbal, must be documented. Written quotations must always be obtained on company's letterhead or proper document(s) issued by the company. These written quotations must be properly filled out including company name and address, date, time, description of commodities/services being quoted, and name of contact that provided the quote.
- 7) **Written Quotations. Written quotations** will be solicited using a Request for Quotation form. The Request for Quotation form will be prepared for the goods/services required and will reflect the quotation number, due date, JAXPORT's contact name and phone number. Whenever possible, include at least one supplier who has not been contacted recently as well as other competitive suppliers, including minority suppliers (JSEB, MBE, DBE). Written quotations must always be obtained on company's letterhead or proper document(s) issued by the company.
- 8) **Telephone Quotations.** Telephone quotations will be solicited when the commodities, supplies or services desired are easily described and easily understood by the suppliers providing the quotes.

**Telephone and Verbal Quotations.** Except for emergencies and as may otherwise be provided for herein, the procurement professionals or staff of the Department shall be responsible for soliciting and securing the required number of quotes described in 4-106(13). Informal verbal solicitations must include:

- a. Vendor's name, contact person and contact information;
- b. Scope summary, unit pricing (if applicable) and total price of the goods and/or services being quoted;
- c. Name of the JAXPORT representative that received the quote;
- d. Date and time the quote was received;
- e. The period of time during which the quote may be accepted; and
- f. Any other relevant information

All verbal and written quotes must be preserved in a written document and include a summary or tabulation of the quotes received. A Telephone Quotation form is available on



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JAXPORT's intranet.

- 9) **Award for Informal Purchases.** Award for informal purchases should be made to the lowest responsive, responsible bidder whose quote conforms in all aspects, to the requirements set forth in the Request for Quotations form. In the case where the lowest bid is not the best overall value, the contract may be awarded to a supplier who has offered a better warranty, delivery terms, or some other term or condition, or combination thereof that has been determined to be in the best interest of JAXPORT. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record. The Purchasing Agent will provide detailed guidance regarding, the dollar limitations for when these quotations may be obtained verbally rather than in writing and what categories of goods or services require different procedures.
- 10) **Use of Alternate Methods.** The Purchasing Agent shall adopt operational procedures for reducing the number of small, repetitive purchases, such as the use of Blanket Purchase Orders, Supply Contracts, Procurement Cards, and petty cash.
- 11) **Exceptions to Procedures.** Informal purchases made from existing contracts of other governmental jurisdictions; (GSA, State of Florida, City of Jacksonville, JEA, JAA, JTA, DCSB, and DOT), will not require the obtaining of competitive pricing. All purchases made under one of these contracts must include a copy of a valid contract number along with its most current expiration date. Purchases made using invalid contract numbers or from expired contracts will be deemed unauthorized. Procurement Services will verify contract information prior to execution of purchases.
- 12) **Procurement Services.** Any orders that are placed with the supplier(s) prior to obtaining required approvals per signing authority or by Procurement Services will be considered unauthorized purchases and will be processed as such. Refer to SOP 1101, Human Resources (Discipline), for disciplinary action regarding repeated violations of Procurement Code.
- 13) **Solicitation for Quotations - Informal Purchases only (Regardless of Funding Source)**
  - (a) **Commodities and Services:** Included in this category are inventory parts, equipment, fleet vehicles, MRO (Maintenance, Repair, and Operations) type services such as but not limited to electrical, plumbing, and fencing, consulting services, professional services non CCNA related, equipment leases, fuel, and other purchases not related to construction or capital improvements.
  - (b) **Professional Services:** The Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, defines professional services as those services within the scope of the practice of architecture, engineering, landscape architecture, or



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registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his/her professional employment or practice.

Written quotations should include company name, address, date, time, description of commodities/services being quoted, and contact. All written quotations must only be used once for each procurement cycle and these will be valid for a period of thirty (30) days, unless otherwise specified by the company. The review and approval requirement for quotes obtained by the operating departments will be made in accordance with the signing authority matrix.

<b>Informal Purchases – Solicitation for Quotes Requirements</b>			
<b>ALL DEPARTMENTS EXCEPT ENGINEERING &amp; CONSTRUCTION</b>			
<b>Type of Purchase</b>	<b>Threshold</b>	<b>Type of Quotation</b>	<b>Number Required</b>
Commodities and Services	\$0 - \$3,000	Verbal or Written	1
Commodities and Services	\$3,000.01 - \$5,000	Written	2
Commodities and Services	\$5,000.01 - \$25,000	Written	3
Construction	\$0 - \$3,000	Verbal or Written	1
Construction	\$3,000.01 - \$5,000	Written	2
Construction	\$5,000.01 - \$50,000	Written	3
<b>ENGINEERING &amp; CONSTRUCTION DEPARTMENT</b>			
<b>Type of Purchase</b>	<b>Threshold</b>	<b>Type of Quotation</b>	<b>Number Required</b>
Commodities and Services	\$0 - \$10,000	Verbal or Written	1
Commodities and Services	\$10,000.01 - \$25,000	Written	3
Professional Services as Defined by CCNA	\$0 - \$10,000	Verbal or Written	1
Professional Services as Defined by CCNA	\$10,000.01 - \$35,000	Written	3
Construction	\$0 - \$10,000	Verbal or Written	1
Construction	\$10,000.01 - \$50,000	Written	3

**Solicitation Procedures - Informal Purchases Only**

- (a) Verbal quotations will be solicited when the commodities/services desired are easily described and easily understood by the suppliers providing the quotes. Quotations received must include:
  1. Vendor’s name, contact person, and contact information;
  2. Scope summary, unit pricing (if available) and total price for the goods and/or services being quoted;



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3. Name of JAXPORT representative or procurement professional receiving the quote;
  4. Date and time quote was received;
  5. The period of time during which the quote may be accepted; and
  6. Any other relevant information.
- (b) Written quotations will be solicited when the commodities/ services/construction related professional services; construction or capital improvements are required based on the dollar thresholds stated above. Whenever possible, include at least one new source of supply including certified minority suppliers (JSBE's/MBE's/DBE's).
- (c) All verbal and written quotes must be preserved in a written document and include a summary or tabulation of the quotes received. This documentation should be attached to the order record.
- (d) The requestor of quotations cannot also serve as approver of the same order, regardless of signing authority.

### **Issue/Approval of MAXIMO Purchase Orders**

- (a) Purchase orders will be entered into the MAXIMO system for purchases of commodities/services being charged to an operating general ledger account made by designated personnel. Once the MAXIMO purchase order is reviewed and approval is obtained by the designated user(s), the MAXIMO purchase order will be printed and will be issued to the respective supplier.
  - (b) The Director of Finance has authority to approve Maximo purchase orders for added freight charges up to an amount not to exceed \$150.00.
- 14) **Blanket Purchase Orders.** These documents are generated by the Purchasing Agent at the request of authorized end users. This method of procurement is utilized, when there is a supply contract in place for commodities/services being charged to an operating general ledger account or the Purchasing Agent determines the use of a blanket purchase order is appropriate. Blanket purchase orders are entered into the MAXIMO system once quotes are reviewed in accordance with Formal/Informal bid thresholds, Section 3-106, Informal Purchases. Blanket purchase orders reduce the need of issuing multiple individual purchase orders for each transaction, thus saving time and cost of processing.
- 15) **Capital Purchase Orders.** These documents are generated by the Purchasing Agent at the request of authorized end user(s), when there is a continuing contract in place or a request for a capital purchase order for construction related professional services, professional services, construction or capital improvements services being charged to a capital project. Once the capital purchase order is prepared and reviewed by the Purchasing Agent, and proper approvals are obtained in accordance with Management Policy No. 39 "Approval Authorizations," the capital purchase order is then distributed to the designated end



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user(s), respective contractors/suppliers and other applicable parties.

- 16) **Change Order Requests** - All change order requests regardless of contract type (i.e. contractual services, supplies, equipment, professional services, construction, or capital projects) are subject to approval as per signing authority matrix. All change order request(s) will require a reasonable explanation as to why this action is necessary. A detailed description must be submitted in writing by the using department. Failure to complete this step may cause a delay of the change order process.
  - (a) Any and all increases to a formal or informal contract will require a change order, accompanied by a detailed explanation of the action being recommended.
  - (b) Any and all change orders made to a contract that results from a formal award where the estimated cost thereof shall exceed \$50,000 or 30% of the "original" award amount for professional services, construction and/or capital improvements, will be reported to the Awards Committee and the Board of Director's.
  - (c) Any and all change orders made to a contract that results from a formal award where the estimated cost thereof shall exceed \$25,000 or 30% of the "original" award amount for contractual services, supplies, equipment and/or commodities, will be reported to the Awards Committee and the Board of Director's.

### 4-107 Single Source (Noncompetitive Purchases)

- 1) **General.** An award for a single source purchase shall be for a supply, service or construction item without competition when, under procedures promulgated by the Procurement Services, or a designated officer at or above the level of manager, whom determines in writing that there is only one available source for the required supply, service, or construction item.
- 2) Upon a recommendation by the designated officer or above level of manager and proper notice and approval under this Procurement Code, an exceptional purchase or purchase made without competition or advertisement can be made from a "single source." For purposes of this Section, a "single source" shall mean a person or entity who (i) provides necessary follow-up goods and services to the Authority, such as replacement parts or warranty-related or required maintenance services for products and equipment previously purchased by the Authority that may only efficiently and effectively be provided by such a person or entity, or (ii) is the only one justifiable source available to provide necessary goods and services to the Authority, such as patented and manufactured products or services offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer. Without competition or advertisement, but only after posting prior notice on Procurement's website for no less than seven (7) business days; a single-source purchase, if found from the relevant facts presented by the user to be sufficiently justified, may be awarded hereunder. As a condition precedent to consideration or award hereunder, the user must submit to the Director or designee a written justification for each





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- single-source, noncompetitive purchase, including, without limitation, a sufficient explanation, as determined by the Director or designee as to why only the proposed make or kind of goods or services will satisfactorily fulfill the needs of the user. A requirement for a particular good or service will not justify an award in circumstances where there is more than one potential source that can efficiently and effectively provide the same. Proposed awards made hereunder may be timely protested pursuant to the Procurement Code protest procedures.
- 3) The determination as to whether procurement shall be made as a single source shall be approved by the Department's Director or designee authorized to approve these types of purchases. Such determination and the basis therefore shall be in writing on form specified as "Certification as to Single Source, Non-Competitive Purchases" and will be attached to the purchase document.
  - 4) **Negotiation for Single Source, Non-Competitive Purchases.** The Director of Procurement Services may be requested to conduct negotiations, as appropriate. Individuals designated in the operational procedures, with final review by the Director of Procurement Services, if requested, may conduct these negotiations.
  - 5) **Record of Single Source, Non-Competitive Purchases.** A record of each single source purchase shall be maintained as a public record and shall list each contractor's name, a listing of the item(s) procured, and an identifying purchase document number.
  - 6) **Periodic Reviews of Single Source, Non-Competitive Purchases.** Procurement Services shall periodically review the records of single source purchases and attempt to find other sources for the goods/services required. Also, during this review the reasonableness of the prices shall be reviewed and comparable items prices studied.
  - 7) **Exceptions to Required Formal Advertisement Methods.** Procurements that meet the criteria of single source, non-competitive purchases Section 4-107(1), and which exceed the informal purchase threshold of \$25,000 or \$50,000, as specified in the JAXPORT Charter, do not have to be formally advertised as either an ITB or an RFP. However, prior to the procurement, the designated Officer or his/her designee will review the specifications and determine that single source procurement is justified. The purchase will then be presented to the Awards Committee for a recommendation to award, in the same format and detail as other contracts awarded through formal advertisement methods.
  - 8) A copy of the "Certification as to Single Source for Non-Competitive Purchases" is attached to this Code, which shall be completed for each appropriate procurement and attached to the purchase requisition.



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### **4-107-1 Piggybacking Under Federal, State, City, or Local Agency Contracts**

Using Departments may request the procurement of goods and services via a process commonly known as “piggybacking,” which is the utilization of approved contracts under federal, state, city and local agencies. These contracts must have been competitively procured, awarded, and contracted by a federal, state municipal, county or local government entity, or body politic, provided that said procurement is not otherwise prohibited by law (piggybacking via GSA may be limited to purchases related to technology.) In a piggybacking request for goods and services, said goods and services must be included and specifically referenced in the publicly and competitively procured contract being piggybacked, which contract must be in use or active at the time of piggybacking request and approval.

Approval of contracts being piggybacked must be presented to the Awards Committee and the Board of Director’s based on formal bidding thresholds. For purchases under another agency’s contract whether federal, state, city, county or other government contracts and agreements which exceeds \$25,000 for supplies, contractual services, goods, and commodities or \$50,000 for professional services, construction related professional services, construction contracts, and capital improvements, a recommendation for award will be prepared containing the same information as for solicited contracts.

In addition, the applicable federal, state, city, county, or other government contracts and agreements contract information or justification for the purchase will be included. The award recommendation will be sent to the Procurement Services for verification of the contract information. The recommendation for award will be presented to the Awards Committee or the Board of Directors, if applicable, following the same procedures as for advertised contracts. After approval, Procurement Services will prepare a purchase order or capital purchase order and forward to the appropriate Director for approval.

### **4-107-2 Participation in E-Verify Required by Florida Law**

Pursuant to Section 448.095, Florida Statutes, all vendors contracting with a public entity, including JAXPORT, are required to register with, and participate in, the federal government’s E-Verify program. By submitting a response to any solicitation or entering into any contract with JAXPORT, vendors acknowledge and agree that:

- 1) If JAXPORT has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.095(1), Florida Statutes, the contract is required by law to be immediately terminated,
  
- 2) If JAXPORT has a good faith belief that a subcontractor has knowingly violated Section 448.095, but the Prime Contractor is otherwise compliant, JAXPORT shall promptly notify the Prime Contractor and order the Prime Contractor to immediately terminate their contract with the subcontractor,



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- 3) A contract terminated as specified herein is not a breach of contract under Florida law, may not be considered as such, but may be challenged in the Circuit Court no later than 20 calendar days after the date of termination,
  - 4) If a contract is terminated pursuant to Section 448.095, Florida Statutes, the Contractor may not be awarded a public contract by any agency for a period of one (1) year after the date of termination, and
  - 5) The Prime Contractor's contracts with every subcontractor who will or may perform any portion of the Services outlined herein must include a provision requiring said subcontractor(s) to comply with the provisions of Section 448.095, Florida Statutes.

A copy of the "Acknowledgement and Acceptance of E-Verify Compliance" form is attached to this Code, and said form shall be completed by the contractor for each applicable contract.

### **4-108 Emergency Procurements**

- 1) **Conditions for Use of Emergency Procurement.** An emergency condition is a situation that creates a threat to public health, welfare, safety, security, or disruptions or stoppages of operations that could cause an economic loss to JAXPORT, its customers or tenants. The existence of such condition creates an immediate and serious need for supplies, services or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of JAXPORT, the preservation or protection of property or the health or safety of any individual.
- 2) **Emergency Procurement Procedures.** Emergency procurements will be made with as much competition as is practicable under the circumstances. The Chief Executive Officer or his/her designee will establish operational procedures for designating individuals authorized to approve emergency procurements, with final review by the Chief Executive Officer or his/her designee, and will have provided to them the method required to be completed to document the emergency procurement.
- 3) **Emergency Change Order Requests.** All emergency change order requests, regardless of contract type, are subject to approval as per the signing authority matrix in accordance with Management Policy No. 39 "Approval Authorizations."
- 4) **Emergency purchases** do not need to be presented to the Awards Committee. Emergency purchases will be reported to the Board as set forth in the signing authority matrix, per Management Policy No. 39 "Approval Authorizations." All emergency change order request(s) will require a reasonable explanation as to why this action is necessary. A detailed description must be submitted in writing by the using department. Failure to complete this step may cause a delay of the change order process. Any and all increases to



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an emergency contract will require a change order, accompanied by a detailed explanation of the action being recommended.

**The following procedures should be followed relative to Emergency Purchases;**

- (a) If an emergency occurs during regular business hours, the user department shall immediately notify the Director of Procurement Services or their designee, who may authorize the user to issue an emergency purchase order.
  - (b) Prior to making any emergency purchase, the Director of Procurement Services or the user, whichever makes the purchase, shall, whenever practicable, secure competitive telephone bids and order services from the lowest responsive bidder.
  - (c) Emergency Purchases up to \$25,000 for contractual services, supplies, equipment or miscellaneous commodities:
    1. In all emergency purchases with a not to exceed amount of \$25,000 the user must complete a "Statement of Emergency" form (located on the intranet) with proper approval from department manager and in accordance with Formal/Informal bid thresholds established in Section 4-106(13). The Statement of Emergency form must then be submitted to the Director of Procurement Services along with quotes received.
    2. Acceptance of the explanation offered by the user as justification of emergency is at the discretion of Chief Executive Officer. Payment of emergency purchases will not be approved until a Statement of Emergency - Request for Emergency Procurement has been received by the Accounts Payable Department.
  - (d) In all emergency purchases with a dollar amount of \$25,000 or more for contractual services, supplies, equipment or miscellaneous commodities or emergency purchases with a dollar amount over \$50,000 for construction related professional services (non-CCNA), construction or capital projects and prior to ordering the required services, the user must complete an "Statement of Emergency" form which must then be submitted to the Director of Procurement Services. The Director of Procurement Services will review emergency statement and will obtain proper approval in accordance with of signing authority matrix. Once the emergency is approved by senior management, the services and/or goods will be ordered and payment processed.
- 4) **Record of Emergency Procurement.** A record of each emergency procurement shall be maintained by Procurement Services as a public record and shall list each contractor's name, a listing of the item(s) procured, and identifying purchase document number.
  - 5) **Reviews of Emergency Procurement.** Once a quarter, the Chief Executive Officer or his/her designee shall review the records of emergency procurements to ensure that there is no misuse of the method and if misuse is determined to be evident, will ensure that



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corrective action is taken.

- 6) **Exceptions to required formal advertisement methods.** Procurements that meet the criteria of Emergency Procurement Section 3-108(1), and which exceed the small purchase threshold amount specified in the JAXPORT Charter, do not have to be formally advertised as either an ITB or an RFP. However, preferable before or as soon as possible after an emergency procurement, the Chief Executive Officer will be provided with all the details on the purchase. After reviewing the circumstances, the Chief Executive Officer will present the emergency purchase to the Board of Director's for their information.

### 4-109 Cancellation of an Invitation to Bid or Request for Proposals

- (1) **Prior to Opening.** An ITB, RFP, or other solicitation may be cancelled and all bids or proposals may be rejected, as may be specified in the solicitation, when it is for good cause, and in the best interests of JAXPORT. The reasons therefore shall be made part of the contract file. EACH SOLICITATION ISSUED BY JAXPORT SHALL STATE THAT THE SOLICITATION MAY BE CANCELLED AND THAT ANY BID OR PROPOSAL MAY BE REJECTED IN WHOLE OR IN PART FOR GOOD CAUSE WHEN IN THE BEST INTERESTS OF JAXPORT. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation, and where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.
- (2) **After Opening.** After opening, but prior to award, any or all bids or proposals may be rejected in whole or in part when the Purchasing Agent determines in writing that such action is in the best interests of JAXPORT for reasons including, but not limited to:
  - (a) The supplies, services, or construction are no longer required;
  - (b) Ambiguous or otherwise inadequate specifications were part of the solicitation;
  - (c) The solicitation did not provide for consideration of all factors of significance to JAXPORT;
  - (d) Prices exceed available funds and it would not be appropriate to adjust quantities to come within the available funds;
  - (e) All otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
  - (f) There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

A notice of cancellation should be sent to all businesses that submitted bids or proposals, and it shall conform to Paragraph 1 above.



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### 4-110 Rejection of Individual Bids or Proposals

- 1) **Notice in Solicitation.** Each solicitation issued by JAXPORT shall provide that any bid or proposal may be rejected in whole or in part when in the best interests of JAXPORT as provided in this Code.
  
- 2) **Reasons for Rejection**
  - (a) **Bids.** As used in this Section, “bid” means any bid submitted in competitive sealed bidding or in the second phase of multi-step sealed bidding process, and includes submissions under Section 4-106, Informal Purchases, if no changes in offers are allowed after submission. Reasons for rejecting a bid include, but are not limited to:
    1. The business that submitted the bid is non-responsible;
    2. The bid is not responsive, that is, it does not conform in all material respects to the ITB; or
    3. The supply, service, or construction item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternatives or other acceptability criteria set forth in the ITB.
  
  - (b) **Proposals.** As used in this subsection, “proposal” means any offer submitted in response to any solicitation, including an offer under Section 4-106, Informal Purchases, except a bid as defined above. Unless the solicitation states otherwise, proposals need not be unconditionally accepted without alteration or correction, and JAXPORT’s stated requirements may be revised or clarified after proposals are submitted. This flexibility must be considered in determining whether reasons exist for rejecting all or any part of a proposal. Reasons for rejecting proposals include, but are not limited to:
    1. The business that submitted the proposal is non-responsible;
    2. The proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements in some material respect; or
    3. The proposed pricing is clearly unreasonable.
  
- 3) **Notice of Rejection.** Upon request, unsuccessful bidders or offerors shall be advised of the reasons therefore.

### 4-111 Disposition of Bids or Proposals

When bids or proposals are rejected or a solicitation cancelled after bids or proposals are received, the bids or proposals which have been opened shall be retained in the procurement file, unopened, returned to the bidders or offerors upon request, or otherwise discarded.

### 4-112 Single Bid or Proposal Received

In an instance where only one bid or proposal is received, a phone survey will be conducted to





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determine why the plan holders did not bid. If it is determined that no advantage would be obtained by re-soliciting, the Purchasing Agent will make a written determination as to whether the offeror is responsible and responsive, and will attempt to obtain comparative pricing either from previous contracts or from industry publications. The Purchasing Agent will then negotiate with the one bidder or proposer as if they were a single source and provide the Awards Committee and Board of Director's with a written summary of the solicitation process, with a recommendation that the contract be awarded.

### **4-113 No Bids or Proposals Received**

In an instance where no bids or proposals are submitted, the Purchasing Agent will contact any businesses that received a solicitation and attempt to determine if there is a need to modify the specifications. If there is no response or there is no advantage to re-bidding, the Purchasing Agent will notify the appropriate using department and obtain technical assistance to change the scope of work or the specifications, if possible, to promote competition.

### **4-114 Exceptions to Required Formal Advertisement Methods**

Procurements that meet the criteria of a Single Source, Non-competitive Purchases, Section 4-107, and/or Emergency Procurement, Section 4-108, and which exceed the small purchase threshold, do not have to be formally advertised as either an ITB or an RFP, with procedures to be followed detailed in Section 4-107(7), and Section 4-108(6). The only other exception to the required formal advertisement methods is in the instance where another governmental agency (city, state or authority, for example) has obtained competitive bids for the same product or service where the contract language allows piggybacking. In this instance, the Chief Executive Officer or his/her designee may determine that it is in the best interests of JAXPORT to contact the company receiving the award and determine if they are willing to offer the same prices and terms to JAXPORT. If the company is agreeable, the purchase will be presented to the Awards Committee for a recommendation for award in the same format and detail as other contracts awarded through formal advertising methods. Use of this method does not eliminate the requirement to ensure that the prices are competitive, based on past experience and other information available.

### **4-115 Purchasing Cards (pCards)**

- 1) The Chief Executive Officer or his/her designee may approve the use of Purchasing Cards (pCards) for the purchase of goods and/or services. The maximum dollar amount purchased with a pCard will not exceed the dollar amount designated in Section 4-106, Informal Purchases.
- 2) Each JAXPORT employee issued a pCard (Cardholder) will have a credit limit as determined by the Director of Finance or his/her designee in consultation with the employee's supervisor.



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- 3) The Cardholder and his/her supervisor are responsible for assuring that all purchases are in compliant with SOP 1215, Procurement Code and SOP 1233, Payment for Goods and Services.
  - 4) The PCard is to be used for one-time purchases where JAXPORT may not have established a business relationship with the supplier or vendor. Examples would be:
    - a. Dues and memberships;
    - b. Subscriptions and publications;
    - c. Promotional events;
    - d. Catering services for company related events; and
    - e. Sponsorships.
  - 5) Next level management written approval (e-mail is acceptable), is required prior to a purchase of goods and services where the Cardholder is the recipient of the goods and services provided, i.e. registration fees, memberships, dues, etc. The written approval should be attached to the month-end reconciliation submitted to the cardholder's supervisor for approval.
  - 6) Prohibited uses of the PCard include but are not limited to:
    - a. Goods or services for personal use (should be considered legitimate port business);
    - b. Travel related expenses;
    - c. Gift cards;
    - d. Cash advances; and
    - e. Inventory parts (any part assigned an item number in MAXIMO).
  - 7) The Purchasing Agent will periodically review purchases made with pCards to insure compliance with small purchase procedures as specified in Section 4-106.
  - 8) The Director of Finance or his/her designee will process PCard invoices monthly in a timely manner and maintain the appropriate financial records.
  - 9) The Purchasing Agent will provide training for all users of JAXPORT pCards.

### **4-116 Electronic Procurement (E-Procurement)**

- 1) JAXPORT will seek to increase utilization of e-procurement/e-commerce in the purchase of goods and services.
- 2) Formal Solicitations shall, when feasible, be available to suppliers over the internet.
- 3) The Purchasing Agent will seek to increase the number of small purchase e- procurements.
- 4) The use of the Internet to seek and receive quotes for informal purchases is encouraged. Supplier adds and payment requirements remain the same as for a non-e-procurement



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purchase.

- 5) When seeking new suppliers or with current suppliers, the Purchasing Agent will seek to increase e-procurement through a Business to Business (B2B) environment.

### **4-117 Unsolicited Proposals**

A Private Entity desiring to deliver an unsolicited proposal to JAXPORT shall deliver such unsolicited proposal in an electronic format to the Director of Procurement Services. In the event that JAXPORT determines that the project described in the unsolicited proposal is in the best interests of the public and JAXPORT and complies with the requirements of Section 255.065 (or 287.057, if applicable), Florida Statutes, then Procurement Services will prepare an advertisement stating that JAXPORT has received the proposal and will accept other proposals for the same project. The advertisement will also notice JAXPORT's intent to negotiate a contract for the project after publishing a solicitation for the project purpose. Upon Board approval, such solicitation shall be published in the Florida Administrative Register and a newspaper of general circulation in Duval County at least once a week for two (2) weeks. Proposals will be accepted for a minimum of twenty-one (21) days, but no more than one hundred twenty (120) days, after the initial date of publication. Upon completion of the advertisement period, Procurement Services will follow their formal solicitation process and the requirements of Section 255.065, Florida Statutes. The timeframe within which JAXPORT may accept other proposals shall be determined by the complexity of the project and the public benefit to be gained by allowing a longer or shorter period of time at the sole discretion of JAXPORT. No compensation of any kind shall be paid to the proposer of an unsolicited proposal except in accordance with a fully executed contract, whether or not a solicitation similar in scope or purpose is later prepared by JAXPORT. No preference shall be granted to a proposer submitting an unsolicited proposal.

## ARTICLE 5 SPECIFICATIONS

### **5-101 General Purpose and Policies**

- 1) Purpose. The purpose of a specification is to serve as a basis for obtaining a supply, service, or construction item adequate and suitable for JAXPORT's needs in a cost-effective manner, considering to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. It is the policy of JAXPORT that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing JAXPORT's requirements.
- 2) Use of Functional or Performance Descriptions. Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to only those necessary to meet the needs of JAXPORT. To facilitate the use of such criteria, using departments shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met. It is



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recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies and services. Such preference is often not practicable in construction, apart from the procurement of supply type items for a construction project.

- 3) Preference for Commercially Available Products. It is the general policy of JAXPORT to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, whenever practicable.

### **5-102 Relationship with Using Departments**

The Purchasing Agent shall obtain expert advice and assistance from personnel of the using departments in the development of specifications and will as much as practicable, review specifications with using departments prior to any solicitation.

### **5-103 Authority to Contract for Specifications**

When a written determination is made by the Purchasing Agent that there will be no substantial conflict of interest involved and it is otherwise in the best interest of JAXPORT, a contract to prepare specifications for JAXPORT use in procurement of supplies or services may be entered into provided the Purchasing Agent retains the authority to finally approve the specifications.

### **5-104 Maximum Practicable Competition**

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying JAXPORT's needs and shall not be unduly restrictive. This policy applies to all specifications, including but not limited to those prepared for JAXPORT architects, engineers, designers, and draftsmen.

### **5-105 Non-restrictive Requirement**

All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a single source, unless no other manner of description will suffice. In that event, a written determination shall be made that it is not practicable to use a less restrictive specification.

### **5-106 Procedures for Development of Specifications**

- 1) Specification of Alternates May Be Included. A specification may provide alternate descriptions of supplies, services or construction items where two or more design, functional or performance criteria will satisfactorily meet JAXPORT's requirements.
- 2) Contractual Terms Not to be Included. To the extent feasible, a specification shall not include any solicitation or contract term or condition such as a requirement for time or place



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of bid opening, time of delivery, payment, liquidated damages or qualifications of bidders.

- 3) Use of Existing Specifications. If a specification for a common or general use item or a qualified products list has been developed for a particular supply, service, or construction item, it shall be used unless the Purchasing Agent makes a written determination that its use is not in JAXPORT's best interest and that another specification shall be used.
- 4) Periodic Review of Specifications. The Purchasing Agent should provide for the periodic review of specifications to determine whether any existing specification needs revision, or a new specification is needed to reflect changes in:
  - (a) The state-of-the-art;
  - (b) The characteristics of the available supplies, services, construction items; or
  - (c) Needs of the using department.

## TYPES OF SPECIFICATIONS

### 5-201 Common or General Use Items

A specification for common or general use items shall, to the extent practicable, be prepared to be utilized when:

- 1) A supply, service, or construction item is used in common by several using departments or used repeatedly by one using department, and the characteristics of the supply, service, or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurement is significant;
- 2) JAXPORT's recurring needs require uniquely designed or specially produced items; or
- 3) The Purchasing Agent finds it to be in JAXPORT's best interest.

### 5-202 Qualified Products List

- 1) **Definition.** A qualified products list means an approved list of supplies, services, or construction items described by model or catalogue numbers, which prior to competitive solicitation, JAXPORT has determined will meet the applicable specification requirements.
- 2) **Use.** A qualified products list may be developed by the Purchasing Agent when testing or examination of the supplies or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the JAXPORT's requirements.
- 3) **Solicitation.** When developing a qualified product list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified product list. Any potential supplier, even though not solicited, may offer its products for consideration.



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- 4) **Testing.** Inclusion on qualified products list shall be based on results of tests or examinations conducted in accordance with prior published requirements.
- 5) **Final Approval, Revisions and Cancellation.** The final approval of, revisions to and cancellation of qualified product lists shall be made only upon approval of the Purchasing Agent or the designee of the Purchasing Agent.

### 5-203 Brand Name or Equal Specification

- 1) **Definition.** Brand name or equal means a specification which uses one or more manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet JAXPORT's requirements, and which provides for the submission of equivalent products.
- 2) **Use.** Brand name or equal specifications may be used when the Purchasing Agent determines in writing that:
  - (a) No other design or performance specification or qualified products list is available;
  - (b) Time does not permit the preparation of another form of purchase description;
  - (c) The nature of the product or JAXPORT's requirements makes use of a brand name or equal specification suitable for the procurement;
  - (d) Use of a brand name or equal specification is in JAXPORT's best interest; or
  - (e) The funding source permits the use of a brand name.
- 3) **Designation of Several Brand Names.** Brand name or equal specifications shall seek to designate three (3), or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- 4) **Required Characteristics.** Unless the Purchasing Agent determines in writing that the essential characteristics of the brand names included in the specification are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
- 5) **Nonrestrictive Use of Brand Name or Equal Specifications.** Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.





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### 5-204 Brand Name Specification

- 1) **Definition.** Brand name specification means it is limited to one or more items by manufacturers names or catalogue numbers.
- 2) **Use.** Because the use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the JAXPORT's needs.
- 3) **Competition.** The Purchasing Agent shall seek to identify sources from which the designated brand name items or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-107, Single Source, Non-Competitive Purchases.

## ARTICLE 6 SUPPLY MANAGEMENT

### 6-101 General Supervision

The Chief Executive Officer or his/her designee shall have general supervision of the management of supplies during their entire life cycle. The objectives of supply management include preventing waste, continuing utilization of supplies, and obtaining a fair return of value upon disposal of supplies. In order to achieve these objectives, sound inspection, testing, warehousing, and inventory practices are called for, and effective means of transferring and disposing of property shall be utilized.

### 6-102 Quality Assurance, Inspection, and Testing

The Chief Executive Officer or his/her designee shall take such steps as are deemed desirable to ascertain or verify that supplies, services or construction items procured by JAXPORT conform to specifications. In performing this duty, the Chief Executive Officer may authorize operating departments to establish inspection and testing facilities, enter into arrangements for the joint or cooperative use of laboratories and inspection and testing facilities, and contract with others for inspection or testing work as needed.

### 6-103 Inventory Management

The Chief Executive Officer or his/her designee shall have general supervision of all inventories of all supplies, whether warehoused or in use, belonging to JAXPORT. This responsibility shall not, however, relieve any department of accountability for supplies under their control. All warehouses and similar storage areas shall be inventoried at least once per year. The Chief Executive Officer or his/her designee shall have general supervision of the determination of appropriate stock levels and economic order quantities for all inventories belonging to JAXPORT.



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### **6-104 Warehousing and Storage**

The Chief Executive Officer or his/her designee shall exercise general supervision of any receiving, storage, and distribution facilities maintained and operated by JAXPORT.

### **6-105 Authorization to Dispose of Tangible Personal Property**

No JAXPORT employee shall transfer, sell, trade in or otherwise dispose of tangible personal property owned by JAXPORT without the written authorizations required in SOP 1216 Sale, Transfer and Disposal of Authority Assets.

### **6-106 Report of Supplies**

All JAXPORT departments shall complete the appropriate forms contained in SOP 1216, Sale Transfer and Disposal of Authority Assets, in order to report excess and surplus supplies. The department preparing the report may suggest a method of disposal and/or a preferred price to be realized from disposition, but the final authority for method and price realized is the Chief Executive Officer or his/her designee.

### **6-107 Disposition of Surplus Supplies**

Surplus supplies, after authorization by the Chief Executive Officer or his/her designee on Form 220-B, will be disposed of in accordance with the procedures contained in SOP 1216.

## ARTICLE 7

### SMALL AND EMERGING BUSINESS PROGRAM

#### **7-101 Project Management**

The Coordinator, Small and Emerging Business (SEB) Programs is responsible for developing, monitoring and enforcing the compliance of SEB participation requirements.

#### **7-102 Outreach**

The Coordinator, SEB Programs will provide timely information on contracting procedure bid preparation and specific contracting opportunities; assuring that SEB's are informed of JAXPORT contracting opportunities.

#### **7-103 Participation Goals**

The Coordinator, SEB Programs will be responsible for setting participation goals for each JAXPORT project. The participation goals will be based the type of work to be completed.

#### **7-104 Annual Targets**

Annual aspirational participation goals are considered to be targets, not quotas. Annual targets for non-federally funded construction, professional service and procurement projects and contracts are set at the outset of each fiscal year by comparative analysis of scheduled projects



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and availability of ready, willing and able SEB Certified firms to perform work in prospective contract areas.

### ARTICLE 8 VENDOR RESPONSIBILITY, SUSPENSION AND DEBARMENT

#### 8-101 Responsibility

The Director of Procurement Services shall have the discretion to make a determination as to the responsibility of vendors, which determination shall include an evaluation of the following factors:

- 1) The ability, capacity, skill and applicable licensing, and insurance of the vendor to perform services for JAXPORT,
- 2) The capability of the vendor to provide services promptly, or within the time specified without delay or interference,
- 3) The character, integrity, reputation, judgment, experience and efficiency of the vendor;
- 4) The quality of performance during previous contracts or services,
- 5) Previous and existing compliance by the vendor with laws relating to contracts or services,
- 6) The sufficiency of the financial resources and ability of the vendor to provide services,
- 7) The quality, availability and adaptability of the supplies, contractual services or capital improvements to the particular use required,
- 8) The ability of the bidder to provide further maintenance and service for the use of the subject of the contract,
- 9) The number and scope of the conditions attached to the vendors bids and/or proposals,
- 10) Whether the vendor has engaged in conduct prohibited by this Code, and
- 11) Other information as may be obtained by the Director that has a direct bearing on the decision to award a contract or in considering a vendor irresponsible.

#### 8-102 Vendor Debarment

The Director shall have the discretion to recommend to the Awards Committee the debarment or preclusion of a vendor from the privilege of directly or indirectly competing for and providing goods and services to JAXPORT. In making such a recommendation, the Director may consider whether the bidder or proposer in question:

- 1) Is more than 60 calendar days in default or breach of a contract with JAXPORT;
- 2) Has failed to perform or has unsatisfactorily performed the terms and conditions of one or more contracts with JAXPORT, which failure to perform or unsatisfactory performance was the result of circumstances within the vendor's control;
- 3) Is behind by 10 percent or more on completing an approved progress schedule for JAXPORT at the time of advertising the work;
- 4) Has been previously convicted of a public entity crime;
- 5) Has been previously convicted of any violation of federal labor, employment, or tax laws regarding subjects such as safety, tax withholding, workers' compensation, unemployment



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- tax, social security and Medicare tax, wage or hour, or prevailing rate laws;
- 6) Has failed to abide by the federal, state and local prompt payment requirements or contractual terms and conditions regarding the same;
  - 7) Has failed to abide by or honor commitments made pursuant to applicable participation goals associated with small or disadvantaged businesses;
  - 8) Has violated § 101 of the Immigration Reform and Control Act of 1986, as now or hereinafter amended;
  - 9) Has violated the provisions of Section 448.095, Florida Statutes, regarding the use of and compliance with the requirements of the federal E-Verify program, or has had a contract terminated within one (1) year by another public entity for a violation of this Statute;
  - 10) Has been debarred by another government entity within the past three (3) years;
  - 11) Has engaged in conduct prohibited herein or that presents a serious threat to the integrity of the public procurement and contracting process, as determined by the Director; and
  - 12) Has engaged in conduct that is otherwise prohibited by federal, state, or local law, statute, ordinance, rule, or regulation.

No vendor shall be entitled to have its name restored to the Bidders' List unless and until it shall have remedied any underlying default and/or breach to the satisfaction of the JAXPORT. Repeated or recurring violations under this Section shall be sufficient reason for the Director to remove the contractor's name permanently from the Bidders' List, subject to review by the Awards Committee and concurrence by the Chief Executive Officer.

### **8-103 Notice of Non-Compliance and/or Debarment**

Upon a determination of a vendor's irresponsibility and/or that a vendor should be debarred, the Director of Procurement Services shall provide said vendor with a written Notice of Non-Compliance and/or Debarment via certified mail, return receipt requested, e-mail, or facsimile, shall state the basis for the determination of irresponsibility and/or debarment and, if applicable, the rejection of the vendor's current bid(s) or proposal(s). At a minimum, notices under this Section shall include the specific reason(s) for the Director's determination and recommendation and, if applicable, the proposed period of debarment (for less egregious violations, as determined by the Director, a period of probation may be recommended, any violations during which period will subject the vendor or proposer to debarment of no less than three (3) years). Vendors may be permanently debarred in extreme circumstances and/or repeated debarments under this section.

### **8-104 Protest of Non-Compliance and/or Debarment**

If, in response to a notice of non-compliance and/or debarment, the vendor properly and timely provides a written Notice of Protest in accordance with JAXPORT's Protest Procedures, the vendor shall be entitled to a hearing before the Procurement Appeals Board within a reasonable time thereafter. Within a reasonable time after hearing the protest and considering the evidence and/or statements presented, the PAB shall issue its recommendation regarding the action



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proposed by the Director in the notice of Notice of Non-Compliance and/or Debarment (a determination inconsistent with the Notice shall not preclude the factual particulars on which said Notice was based from being considered in conjunction with additional information in subsequent evaluations regarding the vendor's responsibility, disqualification, or debarment). Upon approval by the Chief Executive Officer, the PAB's disposition of the Director's recommendation shall become final, and shall represent final agency action.

### 8-105 Failure to Protest, Waiver of Rights

If the vendor fails to properly and timely provide the Director with a written Notice of Protest in accordance with JAXPORT's Protest Procedures, stating, in detail, the particulars of fact and law upon which the protest is based, then the vendor shall have been deemed to have waived their rights, and the action contained in the Director's notice shall become final without further notice and shall represent final agency action.

## ARTICLE 9

### PROTESTS AND THE PROCUREMENT APPEALS BOARD

#### 9-101 Definitions

For the purpose of these Protest Procedures, the following definitions are provided:

- 1) **Solicitation** - shall include without limitation an invitation to bid, competitive sealed bid, multi-step competitive sealed bid, competitive sealed proposal, a request for proposals and/or qualifications, or a request for quotes.
- 2) **Posting** - means the notification of solicitations, decisions or intended decision, or other matters relating to procurement on a centralized website and/or publication
- 3) **Exempt Purchase** - means any purchase exempted or excepted by law or rule from the requirements for competitive solicitation, including without limitation purchases made pursuant to Section 2-105.
- 4) **Final Agency Action** - means a final decision that results from a dismissal or proceeding hereunder, and includes actions which are affirmative, negative, injunctive, or declaratory in form.
- 5) **Procurement Process** - has the same meaning as "contract solicitation or award process."

#### 9-102 Timeliness

In accordance with the procedures contained herein, any person or entity that is adversely affected by a decision or an intended decision hereunder, and who has standing under Florida law to protest the same (the "Protestant"), must timely file a written Notice of Protest pursuant to the following:

- 1) Recommendations of Award and/or Bid Rejection – Protestant shall have three (3) business days after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from an intended decision or recommendation regarding an exceptional



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- purchase, evaluation, scoring, ranking, award, or recommended conclusion to any bid or proposal solicitation process, including without limitation:
- (a) a recommendation to reject a bid or proposal;
  - (b) a contract award; or
  - (c) the evaluation, scoring, ranking, or short-listing of bidders or proposers.
- 2) Bid/Proposal Specifications and/or Requirements – Protestant shall have 10 business days after the posting of a solicitation or 48 hours after the posted date and time of a pre-bid or pre-proposal conference, whichever is earlier, or 48 hours after the posting of an addendum, in which to file a written Notice of Protest in order to timely challenge the requirements, terms and/or conditions contained in bid or proposal documents, including without limitation any provisions governing or establishing:
- (a) the basis for making the award in question;
  - (b) evaluation criteria and relative weight, points, or importance assigned thereto;
  - (c) equipment, product, or material specifications;
  - (d) proposed project schedules;
  - (e) statements as to local participation, equal opportunity goals, or similar issues; or
  - (f) other general solicitation or project requirements.
- 3) Other Action by Procurement – Protestant shall have 10 business days after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from an intended decision or recommendation regarding a(n) action(s) not specified above.

The Director may summarily dismiss an untimely submitted protest, which dismissal, upon the review and approval of JAXPORT's Chief Executive Officer, shall represent final agency action.

### **9-103 Computation of Time**

The computation of the time limitations or periods contained herein shall be governed by and pursuant to Florida Rule of Civil Procedure 1.090(a), as may be amended from time to time. Failure to file a written Notice of Protest within the applicable time limitation or period shall constitute a waiver of any right, remedy, or relief available hereunder.

### **9-104 Form and Content of a Notice of Protest**

A written Notice of Protest must:

- 1) be addressed to the Director or Procurement Services;
- 2) identify the solicitation, decision, or recommended award in question by number and title or any other language sufficient to enable the Director to identify the same;
- 3) state the timeliness of the protest;
- 4) state Protestant's legal standing to protest; and
- 5) clearly state with particularity the issue(s), material fact(s) and legal authority upon which





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the protest is based.

The issue(s) raised and the information contained in the Notice of Protest and any attached documentation filed hereunder, must clearly identify and explain the factual and legal basis for any relief sought; otherwise, the protest may be denied on its face by the Director.

### **9-105 Delivery**

The timely filing of a Notice of Protest shall be accomplished when said notice is actually received by Procurement within the applicable time limitation or period contained herein. Filing a notice may be accomplished by manual transfer via hand-delivery or mail to the Director of Procurement Services at 2831 Talleyrand Avenue, Jacksonville, Florida 32206. The responsibility and burden of proof that its Notice of Protest has been timely and properly received shall rest with the Protestant, regardless as to the method of delivery employed. Filing of a Notice of Protest via e-mail is not permitted.

### **9-106 Acknowledgement, PAB Appointment, Scheduling**

Upon receipt of a proper and timely filed written Notice of Protest, the Director or his/her designee shall acknowledge receipt and forward the same to the Chief Executive Officer with a request for the appointment of a PAB, which will schedule and provide notice of the time, date, and place that it will hear the protest, which notice shall be provided in writing to the Protestant and to those persons or entities that may be directly affected by the resolution of the Protest.

### **9-107 Board Composition and Purpose**

The Procurement Appeals Board shall consist of a chairperson and two other members, all of whom will be appointed in writing by the Chief Executive Officer. Procurement shall act as staff and JAXPORT's Chief of Regulatory Compliance shall provide counsel to the PAB, unless, in the professional opinion of the CRC it would present a conflict, in which case the CRC shall request that the Office of General Counsel provide an attorney to act as the counsel for the PAB. Notwithstanding the provisions herein, procurement staff who participate at the PAB shall not participate in the rendering of any decision of the Board that constitutes final agency action.

The PAB shall be responsible for hearing and providing the Chief Executive Officer recommendations in accordance with the procedures of this section for the disposition of protests challenging a decision or an intended decision regarding a solicitation, solicitation documents, award, contract, vendor debarment, or any other action, process, or procedure prescribed in this Code.

### **9-108 Discretion to Continue or Suspend Award**

The Director or his/her designee shall have the discretion to proceed with the solicitation or contract award process in question or to suspend the same pending the resolution of the protest. To the extent the Director or his/her designee decides to exercise his/her discretion not to suspend



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the solicitation or contract award process pending the resolution of the protest, the Director or his/her designee shall set forth in writing the particular facts and/or circumstances upon which his/her decision is based.

### **9-109 Protest Hearing, Rules, and Procedures**

Protest hearings shall generally be governed and/or conducted as follows:

- 1) General Statement of Rules and Procedures – Hearings before the PAB shall begin with introductions and with the Chief of Regulatory Compliance reading a general statement of the rules and procedures prescribed herein.
- 2) General Statement of the Facts – A Procurement representative shall provide a brief overview of the timeline and facts giving rise to the protest.
- 3) Statement of the Protestant – Representatives of the Protestant, limited solely to its owners, officers, employees and/or legal counsel, shall be required to present its case based solely upon the issue(s) and information contained in the Notice of Protest and any documents attached thereto.
- 4) Statements of Procurement and Other Interested Parties – Those persons or entities, other than the Protestant, who have legal standing and will be directly affected by the resolution of the protest, will be given an opportunity to be heard and to present information before the PAB, which will be followed by a statement and the presentation of information from a representative of Procurement and/or other JAXPORT representatives.
- 5) Brief Closing Statements – Brief closing statements may be made by the Protestant, Procurement and other interested parties.
- 6) PAB Deliberation – The PAB shall consider and publicly discuss the information provided. At any time during the protest hearing, the PAB may ask questions of any person or entity present and/or represented at the hearing.

### **9-110 Standard and Burden of Proof**

The Protestant must establish by the preponderance of the evidence that the protest should be granted based upon the law, facts and information presented. Unless otherwise provided herein, the burden of proof shall rest with the Protestant. The standard of proof for proceedings hereunder shall be whether the recommendation or the decision or intended decision in question was clearly erroneous, arbitrary or capricious, fraudulent, or otherwise without any basis in fact or law. In any protest proceeding challenging a decision or intended decision to reject all bids, proposals, or replies, the standard of review shall be whether the decision or intended decision is illegal, arbitrary, dishonest, or fraudulent.

### **9-111 Evidence**

For hearings under this section, the formal rules of evidence pursuant to the Florida Evidence Code will not apply. Hearsay evidence may be admissible and used to supplement or explain other evidence.



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### **9-112 Vote of the PAB and Final Action of the Chief Executive Officer**

A majority vote of the members of the PAB shall be required to recommend that the protest be granted; otherwise, the PAB shall recommend that the protest be denied, and, once the Chief Executive Officer or his/her designee acts upon the PAB's recommendation, the decision regarding the disposition of the protest shall represent final agency action, written notice of which shall be posted and shall be provided to the Protester and to those persons or entities that may be directly affected by the resolution of the protest.

### **9-113 Severability**

In the event a court of competent jurisdiction declares any provision of these Protest Procedures to be unconstitutional, invalid, or otherwise unenforceable, then all remaining provisions shall be severable, valid, and enforceable regardless of the invalidity of any other provision.

## ARTICLE 10 FORMS

- 1) Statement of Emergency - Request for Emergency Procurement  
Form effective: 10/15/2014; revised 11/29/2021
- 2) Certification as to Single Source – Non- Competitive Purchases  
Form effective: 7/1/2017; revised 11/29/2021, 12/15/2021
- 3) Acknowledgement and Acceptance of E-Verify Compliance  
Form effective: 10/15/2014; no revisions
- 4) Capital Construction Checklist  
Form effective: 10/15/2014; no revisions.

### **Effective Dates:**

**PUR 224:** 9/27/2003; 2/22/2005; 6/15/2005; 10/1/2006; 7/17/2007; 10/1/2007; 3/10/2008; 10/15/2010, Obsolete

**SOP 1215:** 1/1/2015, 4/27/2016, 7/1/2017, 8/7/2017, 3/28/2019, 10/1/2021; 12/14/2021; 3/3/2022; 8/1/2022; 10/14/2022; 8/1/2023