

# CHELAN DOUGLAS REGIONAL PORT AUTHORITY FEDERAL PROCUREMENT STANDARDS POLICY

## (1) PURPOSE

The purpose of this policy is to establish and maintain internal controls to provide reasonable assurance that expenditures of Federal funds for Airport projects are managed in compliance with all applicable Federal regulations and with the terms and conditions of the specific grant or award.

When procuring property and services that involve the expenditure of Federal funds, the Airport will follow the procurement standards set forth herein which are intended to comply with 2 CFR § 200.318 - §200.326, or the purchase procedures set forth by RCW or in the Chelan Douglas Regional Port Authority Administrative Policies, whichever is more restrictive.

Nothing herein is intended to affect or modify the authority to approve purchases or execute contracts, whether such authority resides with the Governing Board of the Port Authority or as delegated to the Chief Executive Officer or Airport Director.

## (2) CODE OF CONDUCT IN CONTRACTING.

The Port Authority establishes the below code of conduct regarding its procurement decisions to ensure efficient, fair and professional administration of Federal grant funds in compliance with 2 CFR §200.112, 2 CFR §200.318 and other applicable Federal and state standards, regulations, and laws.

**2.1 Conflicts of Interest.** No employee, officer, elected official, or agent of the Port Authority shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm competing for the award:

**2.1.1** An employee, officer, or agent involved in making the award;

**2.1.2** His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);

**2.1.3** His/her partner; or

**2.1.4** An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

**2.2 Gratuities, Kickbacks, and Use of Confidential Information.** No officer, employee, or agent of the Port Authority shall ask for or accept gratuities, favors, or items of more than nominal value (i.e. inexpensive hat with logo) from any contractor, potential

contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

**2.3 Exempt Transactions.** The following services and purchasing activities are exempted from the application of this policy:

- Electrical, water, or other utility services by a municipality engaged in the business of providing such services at the same rates and on the same terms as are available to the general public.
- A publication of legal notices required by law to be published, upon competitive bidding at rates not higher than prescribed by law for members of the general public.
- Corporate discounts available to the general public or all government agencies.

**2.4 Remedies.** To the extent permitted by Federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the Port Authority's elected officials, employees or agents, or the contractors, potential contractors, subcontractors or their agents. Any potential conflict of interest will be disclosed in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

**(3) PROCUREMENT METHODS** Procurements shall be made by one of the following methods:

- (a) Micro-purchase (less than \$3,000 for non-construction projects, \$2,000 for construction projects covered by the Davis-Bacon Act);
- (b) Small purchase (\$3,000 - \$150,000);
- (c) Competitive sealed bid (invitation for bid/IFB);
- (d) Competitive proposal (request for proposals/RFP);
- (e) Architectural engineering services (A&E); or
- (f) Emergency procurement and other than full and open competition including sole source.

Services not covered under this policy include:

- Audit services provided under the authority of the Washington State Auditor's Office;
- Repair services provided by or through the manufacturer or manufacturer's authorized service dealer;
- Electrical, water or other utility services by a municipality; and
- Legal advertisements

**3.1 Micro-Purchase Procedures.** For purchases of materials, equipment, supplies, work and/or services for the Port Authority for which the total price is valued at less



than \$3,000 (a “micro-purchase”), the Port Authority may obtain only one quote, provided it is reasonable. To the extent practicable the Port Authority shall make such micro-purchases equitably among qualified suppliers and no favoritism should be shown. The Port Authority shall document its determination that the price is reasonable to the best of the Port Authority’s ability, even if informally. However, no formal cost or price analysis is required. Rather, the execution of a contract or purchase order by the authorized Port Authority contractor shall serve as the determination that the price obtained is reasonable, which may be based on the authorized Port Authority contractor’s prior experience or other factors.

**3.2 Small Purchase Procedures.** For any amounts above the micro-purchase threshold, but not exceeding \$150,000, the Port Authority may use small purchase procedures for the acquisition of materials, equipment, supplies, work and/or services. Under small purchase procedures, to the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. The Port Authority should obtain a reasonable number of quotes (preferably three, if possible). Quotations for Small Purchases (QSP), or quotes, may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the responsive and responsible vendor that submits the lowest cost to the Port Authority. If award is to be made for reasons other than lowest price, documentation shall be maintained in the contract file. The Port Authority shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold. Whenever possible, such services should be solicited from the Port Authority’s Small Works Roster. The Small Works Roster requirement may be waived for special services and circumstances defined by board action or these Procurement Policies.

To determine the reasonableness of the price, a comparison with other offers shall generally be sufficient and no further analysis is required. If a reasonable number of quotes are not obtained to establish reasonableness through price competition, the authorized Port Authority contractor shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the authorized Port Authority contractor personal knowledge at the time of purchase, or any other reasonable basis.

**3.3 Competitive Sealed Bids.** Competitive sealed bidding, also known as Invitation for Bids (IFB), shall be used for all contracts that exceed the small purchase threshold and that are not specifically outlined or excepted by another method of procured contained in this policy or authorized by law.

**3.3.1** An IFB will be used in cases where each of the following conditions is present:

- (a) A complete, adequate, and realistic statement of work, specification, or purchase description is available;

- (b) There is a reasonable expectation that two or more responsible bidders are willing and able to compete effectively for the work;
- (c) The procurement generally lends itself to a firm fixed price contract;
- (d) The award can be made principally on the basis of price and those price-related factors listed in the IFB; and
- (e) The selection of the successful bidder can be made principally on the lowest price.

**3.3.2** A pre-bid/proposal conference may be held in the competitive sealed bid situation for the purpose of answering questions and clarifying the requirements and specifications relevant to the IFB. Notice for such pre-bid/proposal conference shall be advertised and stated in the general requirements section of the IFB or RFP, if applicable. Nothing herein shall preclude the answering of questions or issuance of additional instructions to, or amendments of, the IFB.

**3.3.3** The following requirements generally apply to procurement by competitive sealed bid, in addition to any other requirements specifically set forth in a particular IFB:

- (a) The IFB shall be publicly advertised in an appropriate publication or website posting at least once each week for 2 consecutive weeks before the date fixed for opening the bids.
- (b) Bids shall be solicited from an adequate number of known suppliers with sufficient response time prior to the date set for opening the bids.
- (c) The bidding documents will include any specifications and pertinent attachments, describing the item or services sought in order for the bidder to properly respond.
- (d) The IFB shall specify the Port Authority's right to award the contract to other than the low bidder and its right to reject any or all bids for a sound documented reason.
- (e) A public bid opening will be held at the date and time specified.
- (f) The Port Authority will announce that the bid review will be completed by staff, recommended to the Board of Directors, and the date the contract will be awarded.

**3.4 Competitive Proposal- Request for Proposal (RFP).** A request for Proposal (RFP) shall be used when: the nature of the procurement does not lend itself to sealed bidding; more than one source is willing to submit a proposal; and either a fixed price or cost-reimbursement type contract is to be awarded.

**3.4.1 RFPS** should be used when one or more of the following is present:



- (a) The property or services to be acquired are described in a performance or functional specification; or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing the contract award on factors other than price are present;
- (b) There is uncertainty about whether more than one bid will be submitted in response to an invitation to bid;
- (c) Due to the nature of the procurement award does not need to be based exclusively on price or price-related factors and the importance of cost or price may vary; and/or
- (d) Separate discussions with individual offeror(s) are expected to be necessary after they have submitted their proposals.

**3.4.2** The following requirements apply to procurement by competitive proposals:

- (a) The RFP shall be publicly advertised in an appropriate publication or website at least once each week for two consecutive weeks before the date fixed for opening of the bids;
- (b) All evaluation factors and their relative importance will be identified in the RFP;
- (c) Proposals will be solicited from an adequate number of sources;
- (d) The Port Authority will use written procedures for conducting technical evaluations of the proposals received and for selecting the successful vendors; and
- (e) Awards will be made to the responsible Proposer whose proposal is the most advantageous to the Port Authority, with price and other factors considered.

**3.4.3 Architectural, Engineering and other Related Services.** The Port Authority shall use qualifications based procured procedures as set forth in RCW Chapter 39.80 for the acquisition of architectural and engineering services, such as program management, architectural engineering, design, surveying, mapping and related services (“A&E Services”). The following shall apply to procurement of A&E Services:

- (a) The Port Authority shall cause to be distributed a concise announcement of the general scope and nature of the project or work for which the services are required;
- (b) Offerors’ qualifications will be evaluated to determine award;

- (c) Price is excluded from the evaluation process;
- (d) Negotiations will first be conducted only with the most qualified offeror;
- (e) Only after failing to agree on a fair and reasonable price with the most qualified offeror can negotiation begin with the next most qualified offeror until a contract award can be made to the offeror whose price is determined to be fair and reasonable.

**3.5 Noncompetitive Proposals.** Procurement by noncompetitive proposals (sole- or single-source) may be used only when the award of a contract is inappropriate for the small purchase procedures, sealed bids, cooperative purchasing, or competitive proposals, and if one of the following is present:

**3.5.1 Adequate competition.** The Port Authority determines that competition is adequate after soliciting from several sources and after determining that specifications are not unduly restrictive and changes cannot be made to encourage greater competition. A cost analysis must be performed in lieu of a price analysis when this situation occurs.

**3.5.2 Sole Source/Emergency/Approval.** The item is available only from a single source, based on a good faith review of available sources; a sufficient emergency exists for the procurement requirement will not permit a delay resulting from competitive solicitation or the Federal awarding agency expressly authorizes non-competitive proposals in response to a written request from the Port Authority.

**3.5.3 Procedures.** The following procedures apply when less than full and open competition is available:

- (a) Offers will be solicited from as many potential sources as practicable under the circumstances;
- (b) If an offer is solicited from only one source, that decision must be adequately justified in writing, consistent with all applicable state and Federal standards;
- (c) If applicable and the Federal awarding agency requests, the proposed procurement shall be submitted to the Federal agency for pre-procurement decision award review.

**(4) CONTRACT PROVISIONS** All contracts made by the Port Authority under any Federal award must contain provisions covering the following, set forth in 2 CFR 200 Appendix II, as applicable.

Adopted by the Chelan Douglas Regional Port Authority Board of Directors  
on September 10<sup>th</sup>, 2019.



ELECTRONIC CODE OF FEDERAL REGULATIONS

**e-CFR data is current as of April 5, 2019**

Title 2 → Subtitle A → Chapter II → Part 200 → Subpart F → Appendix

**Title 2: Grants and Agreements**

**PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

**Subpart F—Audit Requirements**

**APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm

or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

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