

## MONTGOMERY AIRPORT AUTHORITY

### Procurement Policy

(As of \_\_\_\_\_, 2022)

The following constitutes the comprehensive guidelines setting forth the Montgomery Airport Authority's operative policy and instructions regarding the use, awarding, monitoring, and reporting of procurement contracts.

#### PROCUREMENT CONTRACT GUIDELINES

I. TITLE. The following comprehensive guidelines detailing the operative policy and instructions of the Montgomery Airport Authority (referred to as the "AUTHORITY") regarding the use, awarding, monitoring, and reporting of procurement contracts, shall be known as "Procurement Contract Guidelines." They shall also be referred to herein as the "Guidelines."

#### II. DEFINITIONS.

A. Procurement Contract – any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of \$50,000 or more.

B. Contract for Goods and Services – any written agreement to provide a good or service (other than those hereinafter defined as Professional services) pertaining to vehicle or building operation and maintenance, office equipment and supplies, fuel and consumable liquids, printing, promotional materials, or any other similar item or items.

C. Contract for Professional Services – any written agreement to provide a service, including but not limited to legal, accounting, management consulting, investing, banking, planning, training, statistical, research, public relations, architectural, engineering, surveying, or other Professional services of a consulting, professional, or technical nature, for a fee, commission, or other compensation by a person or persons not providing such services as an officer or employee of a State agency or public benefit corporation.

D. Disadvantaged Business Enterprises (DBE):

1. For these Guidelines, a disadvantaged business enterprise (DBE) is any business enterprise, including a sole proprietorship, partnership, or corporation that is:

a) *At least 51 percent owned by one or more minority group members or in the case of a publicly-owned business at least 51 percent of the common stock or other voting interests of which is owned by one or more minority group members;*

b) *An enterprise in which the minority ownership is real, substantial, and continuing,*

c) *An enterprise in which the minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and an enterprise authorized to do business in Alabama, independently owned and operated, and not dominant in its field.*

2. For these Guidelines, a minority group member means a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

a) *Black persons having origins of any of the Black African racial groups not of Hispanic origin;*

b) *Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;*

c) *Asian and Pacific Islander persons having origins in any of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or*

d) *Native American persons having origins in any of the original peoples of North America.*

3. For these Guidelines, a women-owned business enterprise (WBE) means a business enterprise, including a sole proprietorship, partnership, or corporation which is:

- a) *At least 51 percent owned by one or more United States citizens or permanent resident aliens who are women or in the case of a publicly-owned business at least 51 percent of the common stock or other voting interests of which is owned by a United State citizen or citizens or a permanent resident alien or aliens who are women;*
- b) *An enterprise in which the ownership interest of women is real, substantial, and continuing;*
- c) *An enterprise in which the women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and*
- d) *An enterprise authorized to do business in Alabama, independently owned and operated, and not dominant in its field.*

4. For these Guidelines, a veteran-owned business enterprise (VBE) means a business enterprise, including a sole proprietorship, partnership, or corporation which is:

- a) *At least 51 percent owned by one or more United States veteran or in the case of a publicly-owned business at least 51 percent of the common stock or other voting interests of which is owned by a United State veteran(s);*
- b) *An enterprise in which the ownership interest of veteran(s) are real, substantial, and continuing;*
- c) *An enterprise in which the veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and*
- d) *An enterprise authorized to do business in Alabama, independently owned and operated, and not dominant in its field.*

III. INTENT. It is fully the intent of the Authority that when practical, and except as otherwise provided for herein, the selection of procurement contractors shall be from the widest available selection of responsible procurement contractors for a particular good or service consistent with the Procurement Contract limits as defined in Section I.

IV. RESPONSIBILITY FOR PROCUREMENT CONTRACTS. The Executive Director of the Authority or his duly appointed designee has the overall day-to-day responsibility and oversight regarding the awarding and monitoring of procurement contracts consistent with the Procurement Contract limits as defined in Section I. Professional services contractors shall be utilized in those areas where the Authority Board determines that such services may not reasonably be obtained by staff members of the Authority or by officers or employees of another State agency or public corporation. In making such determination, facts such as timing, costs, qualifications, or the nature of the services to be rendered shall be taken into consideration consistent with the Procurement Contract limits as defined in Section I.

V. REQUIREMENTS REGARDING THE SELECTION OF PROCUREMENT CONTRACTORS.

A. Professional Services.

1. The selection of Professional service contractors shall be on a competitive basis except that the Board may waive competition if it is in the best interest of the Authority for the Board to do so. The standard of "Best Interest of the Authority" may, but need not be based upon one or more of the following criteria for the selection of Professional service contractors:

- a) *Confidentiality.*
- b) *Specialized expertise or unusual qualifications; or services obtainable from one-source only*
- c) *Historical relationship with the Authority, the continuation of which is in its best interest.*
- d) *Specialized knowledge.*

- e) *Geographical proximity to the Authority.*
- f) *Lack of responsible competition, in the sole opinion of the Authority to perform the desired services.*
- g) *Nature, magnitude, or complexity of services required.*
- h) *Lack of Authority resources, support staff, specialized facilities, or equipment.*
- i) *Lower cost.*
- j) *Short-term or infrequent need for services.*
- k) *Selection which is necessary or convenient to the operations of the Authority.*

2. Any contract involving services to be rendered over a period more than one year shall require the approval of the Board by resolution, and an annual review of the contract by the Board.

3. A Professional service contract shall require approval of the Board by resolution when the amount thereof exceeds \$50,000 consistent with the Procurement Contract limits as defined in Section I.

4. Legal services need not be awarded on a competitive basis.

5. A Professional service contract over \$50,000, which is to be awarded on a non-competitive basis, shall require Board approval. Reasons for a non-competitive award should be stated in approving the motion or resolution consistent with the Procurement Contract limits as defined in Section I.

6. A Professional Service contract of less than \$50,000 need not be awarded on a competitive basis nor approved by the Board unless for a period more than one year. Reasons for a non-competitive award should be recorded for audit purposes. Professional Service contracts greater than \$50,000 and less than \$50,000 shall be discussed with the Authority Chair.

7. Exclusions: Project contractors for Professional services which are paid for by the Authority's tenants/marine users or through grants from local, State, and/or Federal sources are excluded from these guidelines and reporting requirements. Sources of funds other than Authority sources generally have requirements that must be complied with that are different than Authority guidelines.

B. Goods and Other Services.

1. Selection of contractors for goods and services other than Professional Services shall be made only on a competitive basis except as herein otherwise set forth. The level of competition and authorization shall depend upon the estimated or actual value of the goods or service as follows:

a) *Authority purchases not exceeding \$25,000. The authority may purchase directly from a local vendor of its choice pursuant to the following conditions:*

(1) All purchases must be approved in advance by the immediate supervisor for any item of a non-recurring nature.

(2) All purchases of recurring nature such as telephone service, fuel, and electric service are exempt from classification (1).

(3) All purchases of a non-recurring nature not previously budgeted can only be approved when an offsetting cost or budget reduction can be realized.

(4) Supervisor is responsible for determining that a budget allocation (funds) is available prior to any purchase.

(5) All delivery receipts and invoices must be authorized by the departmental supervisor prior to Authority effecting payment.

(6) Goods and Other Services contracts greater than \$50,000 and less than \$50,000 shall be discussed with the Authority Chair.

b) Authority purchases more than \$25,000 but not exceeding \$50,000. No formal competitive bidding is required; however, a minimum of three telephone, internet, or written quotations must be solicited from responsible vendors to obtain the lowest price available. Please note, it is recommended that successful bidder's quote be obtained in writing. Names of vendors and price quotes must be recorded for audit purposes.

c) Authority purchases more than \$50,000 shall be formally bid. Formally bid expenditures shall require an advertisement published once, not less than two weeks prior to the bid opening date, in one newspaper having a general circulation in the City of Montgomery. All such purchases in this category must have a minimum of three (3) bids solicited and specific Board authorization obtained pursuant to the following conditions:

(1) Copy of the general specifications, proposal, and detailed specifications worded as to grade, quality, quantity, delivery, and the date, hour, and place of the bid opening shall be forwarded to each responsible vendor from whom bids are requested. A minimum of three (3) bids shall be solicited.

(2) Bids shall be in writing and sealed and shall be opened publicly at the time and place of bid opening.

(3) A written tabulation of all bids received at the bid opening shall be prepared setting forth the identity of each bidder, the prices quoted, and all other pertinent information. Bids shall be tabulated by item number and unit price in such form as to afford a basis for strict comparison of the prices bid. Bids received after the time noticed for the bid opening shall be rejected and returned to the bidder.

(4) The Authority may make a contract award to the lowest responsible bidder whose commodity best meets the Authority's specifications and may prepare a purchase order addressed to such bidder.

(5) All bids, tabulations, documents, correspondence, and other information pertaining to each Authority purchase together with copies of the purchase order to the lowest responsible bidder shall be forwarded to the Accounting Department for payment.

(6) State contracts let by the State of Alabama Division of Purchasing should be utilized whenever possible if product quality, delivery time, quantity, and price are equal or better than those materials solicited locally by the Authority.

2. Competition may be waived:

a) On an emergency basis when the safety of life or property or business interruption is involved. A written explanation of the nature of the emergency must accompany the purchase order/contract, explaining the need for sole source acquisition.

b) When only one source is available. A written statement must accompany the purchase order/contract, explaining the need for sole source acquisition.

c) The level of approval required for such waivers of competition as set forth in subsections 2(a) and (b) herein shall be Executive Director with all other approvals requiring the Executive Director and the Board of Directors.

d) When public procurement arrangements are used, such as:

(1) City, Country, or regional supply contracts.

(2) Federal GSA contracts.

(3) State Purchasing contracts.

(4) Under a warranty, when the Authority may be required to obtain service from a manufacturer-designated entity.

(5) When the best interest of the Authority is clearly served, as determined by the Executive Director or the Board.

3. Any contract for goods or services other than Professional services, awarded for a period more than one year, shall require the approval of the Board by resolution, and an annual review of the contract by the Board.

VI. DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (“DBE/WBE”).

A. Disadvantaged business enterprises and women-owned business enterprises shall be given full opportunity to compete in all Authority contracts.

B. It is the policy of the Authority to foster and promote participation of disadvantaged business enterprises and women-owned business enterprises in its procurements and the development of such enterprises and to facilitate a fair share of the awarding of procurement contracts to such enterprises. In contracting, the Authority shall use its best efforts to give minority and women-owned business enterprises an opportunity to compete for Authority procurement, by soliciting or requesting offers from minority and women-owned businesses known to have experience in the types of goods or services, including professional services, being sought. Written solicitations or requests for bids or proposals for procurement contracts shall include an affirmative action statement. The Authority will consult with organizations that serve disadvantaged and women-owned business enterprises, will maintain lists, and will refer to known lists maintained by State agencies to reach disadvantaged and women-owned businesses.

VII. PROCEDURES FOR COMPETITIVE SELECTION – PROFESSIONAL SERVICES. The procedures for competitive selection of Professional services contracts when such method of selection is in the best interest of the Authority, is as follows:

A. The Authority shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.

B. A request for proposals (“RFP”) shall whenever practicable and desirable be sent to three or more firms as are in the best interest of the Authority to assure competition, including any DBE/WBE firms selected to receive the RFP pursuant to Authority DBE/WBE programs, unless there are less than three qualified firms or unless competition is waived as provided in the Guidelines.

C. The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/WBE requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals; and shall contain a requirement for a cost proposal and the date, time, and place where proposals must be received.

D. The Authority may select one or more proposers with which to interview after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority. Price, qualifications, and other factors will be used as the basis for the decision.

E. Architectural, Engineering, and Survey Contracts.

1. In the procurement of such architectural, engineering, and surveying services as the Authority determines should be received through the RFP process, the Authority shall evaluate current statements of qualifications and performance data. If desired, the Authority may conduct discussions with three or more professional firms regarding anticipated design concepts and proposed methods of approach to the assignment.

2. The Authority shall then comply with the provisions of subparagraphs “A, B, and C” of Section 7 of the Guidelines.

3. The Authority shall negotiate a contract with the highest qualified professional firm for architectural and/or engineering services and/or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall consider the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the most qualified professional firm, that firm shall formally be terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms in order of their competence and qualification, it shall continue negotiations in accordance with this subparagraph until an agreement is reached.

4. The provisions of this subparagraph "E" shall apply only to engineering and/or architectural services and/or surveying services contracts more than Fifty Thousand Dollars (\$50,000).

5. Contracts for engineering, architectural, or surveying services involving lesser amounts may be entered into pursuant to the provision of this section or any other applicable provisions of the Guidelines.

VIII. PROVISIONS TO BE CONTAINED IN ALL PROCUREMENT CONTRACTS.

A. Procurement contracts shall set forth the nature, quantity, if applicable, and monitoring of the work performed, the use of Authority supplies and facilities, the use of Authority personnel, or other provisions considered to be in the best interest of the Authority. All requirement of law shall be incorporated by reference in the Authority's Procurement contracts. Procurement contracts shall be awarded only to persons or firms deemed responsive to the Authority's Procurement documents, as well as capable and responsible. The following types of provisions may be contained in all procurement contracts, except that any of the provisions listed which are inapplicable or unnecessary because of the nature or duration of services or goods to be delivered, the location or locations where they are to be performed or the type of compensation being paid therefor need not be included. Any other terms deemed applicable may be added.

1. Description of services.
2. Compensation.
3. Time for performance or date of completion.
4. Liability of contractor or consultant; indemnification of Authority.
5. Performance Bond (if project value over \$200,000)
6. Reports of contractor or consultant.
7. Ownership of plans, drawings, or other products of the performance of the services (professional services).
8. Procurement Contract shall contain no undisclosed assignments or subcontracts without the express written consent of the Executive Director.
9. Maintenance of records, accounts.
10. Right of Authority to inspect and/or audit books and records of contractor or consultant (professional services).
11. Insurance Requirements.
12. Termination.
13. Monitoring of the performance of services.
14. Use of Authority supplies, facilities, or property.
15. Use of Authority personnel.
16. All provisions required to be included in Authority contracts by Federal, State, or local laws, ordinances, codes, rules, or regulations.

17. Involvement of former officers or employees.

B. Contractors shall have the following responsibilities:

1. To perform the contract in accordance with its term.

2. To perform services required under a contract competently, efficiently, in a timely and first-class manner, at a reasonable cost and in a manner which is acceptable to the Authority, or to deliver goods or supplies in first-class condition, to the proper location, on a timely basis, and in a manner which is acceptable to the Authority.

3. To cooperate fully with Authority personnel who are directing, monitoring, or supervising the delivery of services or goods, or who are assisting in the delivery thereof.

IX. INVOLVEMENT OF FORMER OFFICERS OR EMPLOYEES.

A. No procurement contracts shall be entered into with former officers or employees of the Authority except by a resolution adopted by a majority of the Members of the Board upon showing that such contract is in the best interest of the Authority, and then only to the extent permitted by the Public Officers Law, the Authority Code of Ethical Conduct concerning outside activities, and other applicable provision of law.

X. PROTEST

A. The Authority will provide a notice of intent to award of all contracts let by competitive bid by electronic posting to the Authority's website. Any bidder adversely affected by an intent to award a contract let by competitive bid may file with the Executive Director a protest within five (5) calendar days after the notice of intent to award is electronically posted.

B. The protest may be filed by mail, by hand delivery, by email or by facsimile. The notice of protest must be filed with the Executive Director by 5:00 PM, Central Time, on the fifth calendar day after the notice of intent to award is electronically posted. The bidder or its legal representative must sign the protest or it will not be accepted. A protest filed after the time limits prescribed herein will not be considered by the Authority..

The protest shall state with particularity the facts and law upon which the protest is based. Within 30 calendar days of receipt of the timely filed, formal written protest, the Executive Director may issue a written decision with respect to the protest. This Article X Protest provision does not create or establish a legal right to a process for consideration or to the award of a contract or any other remedy.

XI. ANNUAL REPORT ON PROCUREMENT CONTRACTS.

A. The Authority shall annually prepare and approve reports on procurement contracts which shall include the Guidelines, an explanation of the guidelines and any amendments thereto since the last annual report. Such report on procurement contracts may be part of any other annual report that the corporation is required to make. For the purposes of this report, only procurement contracts in the actual or estimated amount of \$50,000 need be included.

B. Such report shall be submitted annually for Board review

C. Copies of the procurement annual report are to be made available to the public upon reasonable request.

XII. THIRD PARTY RIGHTS; VALIDITY OF CONTRACTS.

A. These Guidelines are intended for the guidance of officers and employees of the Authority only, and nothing contained herein is intended or shall be construed to confer upon any person, firm, or corporation any right, remedy, claim, or benefit under, or by reason, of any requirement or provision hereof.

B. Nothing contained in the Guidelines shall be deemed to alter, affect the validity or modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of the Guidelines.

XIII. MISCELLANEOUS.

A. Where applicable, Federal, State, or local laws, ordinances, codes, rules or regulations containing requirements which are in conflict with or impose greater obligations upon the Authority than these Guidelines, then such requirements shall take precedence over those contained herein.

B. Any specific provision of the Guidelines may be waived by the Chairman or Executive Director of the Authority or such individuals as they may designate, but only under extraordinary circumstances only.

C. The Authority shall not be precluded from adopting additional requirements relating to the matters covered by these Guidelines.

XIV. EFFECTIVE DATE.

The Guidelines shall be effective as of \_\_\_\_\_, 2022 and shall be reviewed and approved annually.