



# Request For Proposal

# Bank Depository Services

(April 2021)

**Due Date:** Tuesday, June 1, 2021, 10:00 a.m.

**Submittal Location:** Port of Port Arthur Navigation District  
Attn: Judy Bettis  
221 Houston Ave., Port Arthur, TX 77640 (delivery)  
P. O. Box 1428, Port Arthur, Texas 77641 (mailing)

***Pre-Application Conference:***

**Date & Time:** Tuesday, May 4, 2021, (10:00 A.M.)

**Location:** Port of Port Arthur Navigation District  
Administration Office  
221 Houston Avenue, Port Arthur, Texas 77640

Attendance is strongly recommended, but not mandatory.

Questions may be submitted in writing through 3:00 p.m. (May 11, 2021).

No oral questions will be accepted.

Submitted questions will be addressed in formal addenda.



## **REQUEST FOR PROPOSALS – PRIMARY BANK DEPOSITORY SERVICES**

The Port of Port Arthur Navigation District (the Port) is soliciting proposals from qualified financial institutions to provide primary bank depository services. The initial contract period will begin August 1, 2021 and end July 31, 2024. The contract may be extended for two (2) additional one-year periods under the same terms and conditions. Sealed proposals will be accepted until 10:00 a.m. on Tuesday June 1, 2021, at the Port Commission Office, 221 Houston Avenue, Port Arthur, Texas 77640. Proposal envelopes shall be sealed and designate on the front envelope, the following:

### **Bank Depository Services.**

**Note: Proposals received after 10 a.m., Tuesday, June 1, 2021 will not be considered.**

The sealed proposals submissions shall include the following:

1. One original (so marked) and three (3) complete bound copies of the proposal,
2. One complete copy of the proposal response as a PDF file on a flash drive; and
3. The MS-Excel Fee Schedule on a flash drive.

Any proposal received after the time and date above, regardless of delivery, will not be considered and will be returned to the offeror unopened. All prospective offerors are strongly encouraged to attend a non-mandatory pre-application conference at the Port Commission Office, 221 Houston Avenue, Port Arthur, Texas 77640 on Tuesday, May 4, 2021, 10:00 A.M. Questions concerning this RFP should be directed in writing to Judy Bettis, Director of Finance at [Judy@portpa.com](mailto:Judy@portpa.com). The Port reserves the right to reject all proposals and to waive all formalities except time of filing.

A copy of the complete Request for Proposals may be obtained from the Port's website at <http://portpa.com>. Questions may be submitted in writing through 3:00 p.m., May 11, 2021. No oral questions will be accepted. Submitted questions will be addressed in formal addenda.

**Port of Port Arthur Navigation District  
of Jefferson County, Texas**

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## INTRODUCTION

The Port of Port Arthur Navigation District (the “Port”), pursuant to Chapter 105, Texas Local Government Code governing the requirements of Depositories for Municipal Funds, is soliciting proposals from eligible and qualified financial institutions to provide the Port the banking services as described following. To be an otherwise qualified offeror, the banking institution must have a local presence. “Local” being defined as domiciled in or having a presence within the boundaries of the Port of Port Arthur Navigation District of Jefferson County, Texas.

All charges and fees associated with the Bank Depository Services Agreement must be clearly and accurately included in the RFP response. The charges and fees represented in the RFP response shall overrule all previous bank service or other agreements between the Port and the financial institution, as they relate to the accounts and services included herein. The Port will not be obligated by any charges and fees not clearly and accurately presented in the RFP response. Services initiated after consummation of the Bank Depository Services Agreement shall carry charges and fees mutually agreed to, in writing, by the Port and the financial institution. Regardless of time delay, the financial institution shall refund or credit the Port for any erroneous charges and fees not agreed to in writing.

The philosophy incorporated into the RFP is to solicit proposals for banking services currently utilized or being considered by the Port. The Port intends to manage its funds to provide for the safety of funds and securities, provide for the availability of those funds for the payment of all necessary obligations, improvement of operational efficiency, optimize investment capabilities and to minimize banking costs.

While the Port expects the contract duration to be five (5) years, the initial agreement period will be for a three-year period of August 1, 2021 through July 31, 2024, with a provision for two (2) one-year extensions under the same terms and conditions of the contract, at the option of the Port. The agreement will also provide for a transition period not to exceed ninety (90) days for migration to a new bank at the end of the term.

The Port reserves the right to open or close any number or type of accounts, as it deems necessary throughout the term of the agreement. Any fee charged for services not listed but later requested by the Port will be mutually agreed upon in writing. All fees, rates, and conditions shall be fixed for the entire contract period, including extensions.

The Bank Depository Services Agreement is an important component of the treasury and cash management system of the Port. From this perspective, the Port is seeking a financial institution that is:

- Capable of providing the services required by the Port,
- Willing to be attentive and responsive to the Port’s financial matters, and
- Financially sound and meets the Port’s requirements.

## REQUEST FOR PROPOSALS

Pursuant to Chapter 105 of the Local Government Code, this RFP is intended to serve as the proposal form for the Bank Depository Services Agreement. There are multiple blanks to fill in and questions to be answered. The evaluation of the proposals will be based on the responses included herein.

Exceptions, conditions, or qualifications to the provisions of the Port's specifications or requirements must be clearly identified as such, with the reasons therefore, and alternate language proposed by the respondent, if any, clearly stated and inserted in the appropriate place in the application submission.

Each of these exceptions, conditions or qualifications to the Port's specifications may be included, as appropriate, in the contract document. Items and matters not explicitly excepted in this manner shall be deemed to be in conformance with the Port's specifications.

The RFP also requests certain information to be attached and specifically labeled. Responses must be complete, address all aspects of the RFP, and include all requested information to receive full consideration by the Port in the selection process. The Port may choose to waive any irregularities in any responses received and reserves the right to reject all applications.

The Port desires to enter into a contract of mutual party benefit and will answer all questions pertaining to this RFP. In this regard, the Port will hold a pre-proposal conference at the Port Administration Building prior to the deadline for submission of the proposals. Attendance at the pre-proposal conference is not mandatory but strongly encouraged. Please note the following calendar of events for the dates and times of key elements in the proposal process.

<b>CALENDAR OF EVENTS</b>
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RFP distributed to prospective financial institutions.	April 23, 2021
Non-Mandatory Pre-Application Conference (10:00 A.M.)	May 4, 2021
Deadline for Questions/Request for Additional Information (3:00 P.M.)	May 11, 2021
<b>Responses due to PORT (10:00 A.M.)</b>	<b>June 1, 2021</b>
On site meeting/demonstration with finalists	June 15 - 16, 2021
Board of Commissioners consideration of Contract Award	June 23, 2021
Bank Depository Services Contract period begins	August 1, 2021

## PROPOSAL REQUIREMENTS

One original (so marked) and three complete copies of the proposal, and one Flash Drive containing the completed MS-Excel Fee Schedule and a PDF of the complete proposal, sealed and clearly marked **“Request for Proposals Bank Depository Services”**, shall be delivered to the Director of Finance by 10:00 A.M., on Tuesday, June 1, 2021 and addressed:

Director of Finance  
Port of Port Arthur Navigation District  
221 Houston Avenue  
Port Arthur, Texas 77640  
(409) 983-2011

**NO PROPOSALS SHALL BE ACCEPTED AFTER 10:00 A.M. ON Tuesday, June 1, 2021.**

The proposals shall use this RFP as the Official Response Form. Submitted prices, rates, conditions, and answers shall be included in final contract form. The signed, submitted response must include printed copies of all completed worksheets and will be deemed the respondent’s official response. To reduce errors and increase the ease of both response and evaluation, the Port is providing the RFP in a PDF format and Fee Schedule in MS-Excel format. The MS-Excel worksheet of the Fee Schedule is to provide unit prices for the bank services items listed and will be extended for the activity volume indicated for each item, to arrive at a total service cost.

**It is this Excel Fee Schedule information and a PDF of the complete proposal that are required to be provided on a Flash Drive with the proposal.**

### **BASIS OF AWARD**

It is the intent of the Port to award the Contract to the offeror(s) whose proposal provides the best value for the Port. It shall be based on all factors, which have a bearing on price and performance of the items in the user environment. Compliance with all proposal requirements, delivery and needs of the Port are considerations in evaluating proposals.

The Port reserves the right to contact any offeror, at any time, to clarify, verify or request information regarding any proposal. Unless stipulated in the attach RFP, the contract will be awarded to the offeror who provides goods and services specified herein at the best value for the Port in compliance with Chapter 105 of the Texas Local Government Code. The Port reserves the right to waive any formality or irregularity, to make awards, or to reject any or all proposals.

Offeror must qualify under current Texas Law as a state or national bank capable of servicing the Port’s banking activities as specified herein.

Transfer of funds will commence at such time the successful offeror has provided the Port with all required forms and supplies necessary to insure uninterrupted day-to-day operations. The successful offeror commits its “best efforts” to complete the execution of documentation and transfer of funds by the August 1, 2021 contract period start date. Failure to complete by the start date, at the discretion of the Port, could be considered grounds for alternate bank selection.

The successful offeror, upon termination of an agreement resulting from this RFP, shall cooperate with the Port for transfer of funds.

All responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Offerors are advised to consult with their legal counsel regarding disclosure issues to take the appropriate precautions to safeguard trade secrets or any other proprietary information. The Port assumes no obligation or responsibility for asserting legal arguments on behalf of offeror. If an offeror believes that a response or parts of a response are confidential, then the offeror shall so specify. The offeror shall stamp in bold red letters the term "confidential" on that part of the response which the offeror believes to be confidential. Vague and general claims as to confidentiality will be automatically considered public information. Notwithstanding, responses to this RFP shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the responses secret during negotiations.

Any questions concerning this RFP must be directed in writing to:

Judy Bettis, Director of Finance  
Port of Port Arthur Navigation District  
221 Houston Avenue  
Port Arthur, Texas 77640

Email: [Judy@portpa.com](mailto:Judy@portpa.com)



**PROPOSAL SUBMITTED BY**

This proposal is being submitted to the Port of Port Arthur by the following person, duly authorized to act on behalf of the financial institution.

Name of Financial Institution

FDIC Certificate #

Address of Financial Institution

Telephone #

Email Address

Officer Name & Title (printed)

Officer Signature \_\_\_\_\_

Signature indicates respondent accepts the specifications, terms and conditions of the solicitation and that respondent is not involved in any lawsuit against the Port.

Date:

## CRITERIA FOR EVALUATION

The Port shall carefully review the submitted proposals. The evaluation of the proposals will be based on, but not limited to, the following criteria with associated weights:

	<u>Points</u>
1. Financial strength and stability of the institution	25
2. Ability to perform and provide the required and requested services	25
3. Costs	20
a. Costs of services	
b. Transition costs, retention, and transition of offers and incentives.	
c. Interest paid on deposits and interest - bearing accounts.	
d. Earnings credit calculation on compensating balances.	
4. Completeness of application and agreement to points outlined in the RFP	10
5. Availability of funds	10
6. References provided and quality of services	10

## ACCOUNT STRUCTURE and ACTIVITIES

The Port will utilize an account configuration that consist of the following bank accounts:

- Operations & Maintenance Fund (O&M Fund)
- Promotion & Development Fund (P&D Fund)
- Debt Service Fund (DS Fund)
- Operation & Maintenance Tax Revenue Fund (O&M Tax Revenue Fund)

The **Operations & Maintenance Fund (O&M Fund)** serves as the Port's primary operating account. It is a commercial checking account into which bank deposits are made (both remotely and in-person), checks are drawn, wires and ACH transfers are received and initiated, returned checks and deposits corrections are posted, bank services account analysis fees are debited, and investment activity of purchases and sales are made. Additionally, bi-weekly payroll (Direct Deposits), payroll tax payments and weekly accounts payable disbursements are handled through this account.

The **Promotion & Development Fund (P&D Fund)** is utilized for promotional and marketing expenditures. Funds are received and disbursed via wire transfers, ACH transfers and checks.

The **Debt Service Fund (DS Fund)** is utilized to receive and disburse funds from the Debt Service portion of Property Tax Collections. Funds are received and disbursed via wire and ACH transfers.

The **Operation & Maintenance Tax Revenue Fund (O&M Tax Rev. Fund)** is utilized to receive and disburse funds from the O&M portion of Property Tax Collections. Funds are received and disbursed via wire and ACH transfers.

The activity for March 2021 with balance information for these accounts is tabulated in Exhibit 1 and Exhibit 2 and reflected in the Fee Schedule. Actual balances and transaction activity could vary significantly.

If new accounts are established during the contract period they will be opened and maintained under the same contractual provisions. Any or all Port funds may be maintained and invested outside this contract. The Port will be under no obligation to maintain funds in the Offeror's institution. The Port may direct funds to pools or investments.

## REQUIRED BANKING SERVICES

The following services are required to be provided as described and/or be provided in an alternative form that results in essentially the same outcome or capability.

1. **Online Banking Services** – The Port requires online banking services accessible through the internet, that at a minimum include balance reporting, initiation of ACH debits and credits and wire transfers in and out, interbank account transfers and placement of stop payments on checks. Additional capabilities should include the ability to reprint statements and export information. The daily balance reporting information should be for previous business day, and include closing ledger balance, closing collected balance, opening available balance, one-day float, two-day float, MTD average closing ledger balance, MTD average closing collected balance, total credits, total debits, detail debits and credits total number of credits and debits, and should allow transaction search capability.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

2. **Remote Deposit Capture Services** - The Port is currently using a remote desktop deposit scanner (Panina). The Port will **require** a comparable scanner for remote deposit service with the inclusion of imaging of deposit items.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

3. **ACH** – The Port **requires** an ACH system with the capability to create ACH credits for direct deposits for payroll, payroll taxes and vendor payments, and ACH debits for repetitive payments of varying amounts.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

4. **Wire Transfers** – The Port **requires** an online banking system that provides for initiating wire transfers. Wires may be one-time wires or set up as repetitive wires of varying amounts.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

5. **Intra-Account (Book) Transfers** – The Port **requires** the online banking system to have the ability to transfer monies between accounts.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

6. **ACH Debit Blocking** – The Port **requires** ACH debit blocking capabilities on its' accounts, with the ability to selectively permit specified ACH debits on certain accounts and restrict all ACH debits from certain accounts.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

7. **Returned Check Reporting** – The Port **requires** same day notification of all returned checks.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

8. **Account Analysis** – The Port **requires** account analysis statements by individual account and at group level, which will reflect average ledger balance, average collected balance, average available balance, investable balance available for services, rate, and net amount of earnings credit, DDA interest paid, detail of services provided with quantities and unit fees for each, and total service cost delivered to the Port monthly.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

9. **Bank Statements** – The Port **requires** that statements be rendered within five (5) working days after the close of the calendar month. Accounts shall not be placed in dormant mode for inactivity. The statement shall include a detail listing of debits and credits made through the last day of the period. Bank statements should be received monthly, even if there is no activity for the month.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

10. **Payment for Services** – The Port **intends** to pay for all services provided by the earnings credit amount generated by account balances, or by direct payment, or a combination of both.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

11. **Account Settlement** – Settlement of the excess/deficient condition as reflected by the group level account analysis is **required** to occur on a **quarterly basis**. If deficient, settlement is to be made by direct debit from the Ports' Operations & Maintenance Fund (O&M Fund) account.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

12. **Audit Confirmations** – Bank will provide account balance audit confirmations to the Port’s audit firm annually at no charge.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

13. **Balance Assessment** – State how the Bank will treat the FDIC Insurance Assessment on balance:  
**(Also reflect treatment on the attached Fee Schedule)**

\_\_\_\_\_ Fees to be waived.  
\_\_\_\_\_ Fees to be partially waived.  
\_\_\_\_\_ Fees to be passed in full to the Port.

*Comments:*

14. **Reserve Requirement** – State whether, or not the Bank imposes a reserve requirement on balances used in calculating earnings credit.

\_\_\_\_\_ YES  
\_\_\_\_\_ NO  
Reserve Requirement % \_\_\_\_\_

*Comments:*

15. **Earnings Credit Rate** – Offeror must state the ECR being proposed.

ECR% \_\_\_\_\_  
*Comments:*

**SERVICES THAT MAY BE CONSIDERED**

The following services may be considered; please indicate the Bank's ability to provide the services as described and the associated set-up, maintenance and/or per item processing charges:

1. **Online Payments Acceptance** – The Port is interested in exploring options and capabilities for accepting payments for goods and services through an online interactive network that would include payments by credit card, direct debits, funds transfer, etc. A function of this system would be the preparation of an accompanying remittance information.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

2. **Foreign Currency Exchange** - Port employees travel internationally. As such, having foreign currency on hand to cover immediate expenses such as taxis, meals, tips, etc. – without having to locate an exchange office immediately upon arrival is a plus. The bank's ability to offer this foreign currency exchange service, at competitive rates, for any number of countries is a preferred service.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

3. **Other Service Enhancements & Additional Services.** Based on the information provided in this RFP and Offeror's knowledge of the public sector, please describe any services or technological enhancement and cost information, not previously mentioned, that may be considered for further improving the effectiveness of the Port's financial management operations. These services are not required but will be evaluated in terms of availability, feasibility, service levels, service providers and costs. The Port will make its determination after receipt of proposals as to whether a service will be used. If the service is accepted later in the contract period, the service and charges stipulated in the proposal will be applied.

Offeror agrees to provide any other banking related services not heretofore specifically mentioned, which the Port may require or request from time to time. The cost of such services shall be negotiated and mutually agreed upon at the time of such request for additional services.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments*

4. **Relationship Manager.** To ensure contract implementation and continuation of service levels, a primary relationship manager for automated and treasury services at the Offeror's local facility must be assigned to the Port's accounts. The person needs to understand the needs of the Port, be able to coordinate services, expedite the solution of any problem encountered, and meet with Port staff on banking matters as needed.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments*

## DEPOSIT PROCEDURES

Most Port funds are received via Check, Wire and/or ACH transmittal. The Port currently utilizes a remote desktop deposit scanner to deposit checks received. The Port will **require** a desktop scanner for remote deposit service with the inclusion of imaging of deposit items.

The Port periodically receives cash for deposit. Please describe the banks' policy/procedure for making commercial deposits at the bank, the use of the night deposit drop-box and teller services.

*Comments:*



**COLLATERAL REQUIREMENTS**

1. **Collateralization** – The successful offeror shall pledge collateral to satisfy the requirements of the Public Funds Collateral Act, Chapter 2257 Texas Government Code, and the Port’s Investment Policy. The Port requires Offeror to obtain and maintain acceptable collateral sufficient to cover all anticipated time and demand deposits, above the FDIC insured limit. Collateral will be maintained at a minimum of 102% margin of principal plus accrued interest. Monthly reporting shall be provided indicating marked to market values. Control will be shared jointly between Offeror and the Port. Substitutions must be preapproved by the Port, and such approval will not be unreasonably withheld. Substitutions of collateral must be requested in writing and new collateral must be received before the existing collateral is released.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

2. **Collateral Monitoring** – The successful offeror must monitor the collateral adequacy on a daily basis, and provide additional collateral as necessary, to secure balances as required by the Port’s Investment Policy. The Offeror shall be contractually liable for the daily monitoring and maintenance of collateral at the Port’s required margin level. Monthly reporting of this daily monitoring is required.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

3. **Pledges Collateral Custody and Safekeeping** – The pledged securities shall be held in safekeeping at an independent third-party safekeeping institution outside of the holding company of the Offeror. Offeror will execute a third-party safekeeping agreement with the Port and the Safekeeping institution for safekeeping of said securities.

Name of Proposed Custodian:

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

4. **Collateral Substitution** – Any substitutions of the pledged securities will be performed as provided for in the Port’s Investment Policy.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

5. **Reduction and Release of Pledges Collateral** – Any reduction in the total amount of pledged collateral shall be pre-approved, in writing, by an authorized signatory of the Port.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

6. **Collateral Report** – The successful offeror **and** the custodial bank shall provide the Port a monthly pledges securities report and additional reports as requested by the Port. The report must describe the total pledged securities by:

Name  
Type / Description / Coupon Rate  
CUSIP  
Original Face Value  
Par Value  
Current Face Value  
Market Value  
Maturity Date

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

## INVESTMENT ACTIVITIES

The Public Funds Investment Act (PFIA), in conjunction with the Port's Investment Policy, shall govern the Port's investment activity and the successful offeror shall be required to provide services within the constraints of both. Offeror must complete the attached PFIA Certification that acknowledges that they have reviewed the Port's Investment Policy.

1. **Direct Investment Alternatives** – The Port's direct investment activities may take place in any and all of the Port's accounts. The Port shall have the right, at its sole discretion, to direct investment of its funds. Interest earnings on interest bearing accounts shall be credited monthly regardless of the amounts, with no minimum amount restriction. The Investment Policy outlines the Port's options for investing. The Investment Policy is subject to annual review and revision by the Port.

The Port may choose to purchase securities from the Offeror. However, securities purchased will be competitively bid at the time of purchase.

\_\_\_\_\_ Yes, can provide as required.      \_\_\_\_\_ No, cannot provide as required.

*Comments:*

2. **Certificates of Deposits** – Certificates of Deposit ("CDs") purchased for the Port shall be non-negotiable and shall be registered in the name of the Port. The CDs will be insured within FDIC insurance limits or collateralized in accordance with the RFP requirements. Proof of collateral, in excess of FDIC insurance limits, must be supplied to the Port prior to CD settlement.

\_\_\_\_\_ Yes, can provide as required.      \_\_\_\_\_ No, cannot provide as required.

*Comments:*

3. **Securities Clearing, Safekeeping and Custody Services** – The Port **requires** that the bank provide safekeeping services for the securities owned by the Port. All securities will be handled on a delivery versus payment ("DVP") basis as they are cleared into and out of the Port's account.

The bank must act as securities clearing agent for all securities purchases made by the Port and for sales of securities from the investment portfolio and will provide the necessary wire transfer and physical delivery services required to support investment activities. All principal and interest payments, coupon payments, and maturities must receive automated same day collected credit without requiring any additional Port action. Necessary controls will be negotiated with the Bank. Confirmation of trades must be provided to the Port within one (1) business day.

The bank must provide safekeeping services for all securities owned/purchased during the term of the depository agreement pursuant to a "Custodial Agent Agreement" executed between the Port and the bank. Safekeeping receipts for all security purchases must be issued within two (2) business days. All interest payments on securities held must be posted on the due date or on the next business day in the event the due date falls on a weekend or bank holiday. The Port must be notified of any securities called prior to maturity.

The Port **requires** a web-based safekeeping transaction monitoring and reporting mechanism.

All fees related to investment services provided by the bank, including safekeeping services, must be itemized, and included on the Bank Service Fee Schedule submitted in response to this RFP.

Yes, can provide as required.  No, cannot provide as required.  
*Comments:*

**OVERDRAFT PROVISIONS**

1. **Net Overdraft Defined** – The Port does not intend to have a net overdraft position occur during the course of the agreement period. A net overdraft shall be defined as a negative balance in the Port’s accounts **collectively**, not by individual account.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

2. **Notification** – In the event a check or checks shall be presented for payment where there are insufficient funds in the Port’s collective accounts, the successful offeror agrees to promptly notify the Port by telephone or email, of the overdraft condition and to provide the Port a period not less than one (1) business day to respond and rectify the condition.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments:*

3. **Stipulations** – Should a net overdraft condition occur; the following shall apply:

- a. Maximum number of banking days the overdraft shall be allowed: \_\_\_\_\_
- b. Maximum amount of the overdraft: \$ \_\_\_\_\_
- c. Interest rate per annum computed on the overdraft: \_\_\_\_\_ %

*Comments:*

**OTHER STIPULATIONS**

1. **Regulation Notifications** – The successful offeror shall notify the Port in writing within thirty (30) days of any changes in Federal regulations or laws that would affect the agreement.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

2. **Right to Cancel under Federal or State Law Rulings** – In the event it would be ruled illegal under the provisions of any Federal or State laws or regulations for the successful offeror to comply with the requirements of the agreement, the Port expressly reserves the right and privilege to cancel the agreement and to re-solicit proposals.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

3. **Access to Bank Records** – The successful offeror’s records relating to the Port’s accounts shall be open for review during normal business hours by designated Port staff members or appointed independent auditors.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

4. **Right to Open & Maintain other Accounts** – The Port reserves the right to open and maintain one or more demand accounts and/or investment accounts at financial institutions not affiliated with the successful offeror.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

5. **Secondary Depository Bank** – As a component of its disaster recovery plan, the Port may consider maintaining a contractual agreement for a secondary Depository Bank relationship should an event occur that makes the primary bank depository inaccessible. Depending on the outcome of this solicitation for a primary bank depository relationship, would the Bank consider entering into this secondary relationship?

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

6. **Right to Terminate** – The Port expressly reserves the right to terminate the agreement with or without cause at any time by providing ninety (90) days written notice to the successful offeror to close its accounts.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.

*Comments:*

7. **Terms Fixed** – All fees, rates, and conditions shall be fixed for the entire agreement period, including any-and-all continuations.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments*

8. **Formal Agreement Required** – The final appointment of the successful offeror shall be made by the Port of Port Arthur’s Board of Commissioners. The successful offeror shall be required to enter into an agreement that incorporates all the requirements of offeror’s official response to this RFP, along with the accompanying related schedules and materials as called for in this RFP. Required attachments include collateral custodial agreement, FIRREA bank certification and PFIA investment provider certification.

\_\_\_\_\_ Yes, can provide as required. \_\_\_\_\_ No, cannot provide as required.  
*Comments*

9. **Relationship Officer** – The Port request one relationship manager to coordinate the successful offeror’s efforts and remain directly responsible for facilitating all Port / Offeror interaction:

Relationship Officer Name: \_\_\_\_\_

Relationship Officer Title: \_\_\_\_\_

Contact Information (Phone/Email/Physical Address): \_\_\_\_\_

10. **Officer Resumes** – Please provide a brief resume of the principal individuals with whom the Port will be interacting with at the bank.

**EXHIBIT 1**

**BANK TRANSACTIONS BY ACCOUNT**

Transactions from March 2021 Bank Statements

Description	Beginning Balance	Number of Credits	Credit Amounts	Number of Debits	Debit Amounts	Interest Paid	Ending Balance
* Operations & Maintenance Fund (O&M Fund)	\$487,982	96	\$5,584,245	169	\$5,396,727	\$138	\$675,637
Promotion & Development Fund (P&D Fund)	16,679	2	19,200	15	26,148	1	9,732
Operation & Maintenance Tax Revenue Fund (O&M Tax Revenue Fund)	238,833	4	68,307	0	0	38	307,178
Debt Service Fund	105,319	4	128,908	3	68,270	19	165,977
<b>Total</b>	<b>\$848,812</b>	<b>106</b>	<b>\$5,800,660</b>	<b>187</b>	<b>\$5,491,144</b>	<b>\$197</b>	<b>\$1,158,525</b>

\* Note - Investment Transactions are posted in the O&M Fund, i.e. Interest, Maturities/Calls, Purchases.



**EXHIBIT 2**

**BANK ACCOUNT ANALYSIS SUMMARY**

April 2020 – March 2021

Period	All Accounts Avg. Ledger Bal.	All Accounts Avg. Collected Bal.
April-20	\$1,587,832	\$1,556,411
May-20	2,456,526	2,417,567
June-20	1,271,007	1,242,415
July-20	1,655,050	1,644,250
August-20	1,344,063	1,331,296
September-20	1,172,264	1,163,167
October-20	1,161,115	1,153,249
November-20	1,518,754	1,509,508
December-20	1,837,641	1,831,947
January-21	1,421,547	1,417,123
February-21	4,505,426	4,499,663
March-21	1,448,946	1,446,285
<b>Total</b>	<b>\$21,380,171</b>	<b>\$21,212,881</b>
<b>Average</b>	<b>\$1,781,681</b>	<b>\$1,767,740</b>

<b>FEE SCHEDULE</b>
---------------------

**Fee Schedule – based on March 2021 Transaction Volumes with adjustments and estimates.**

**Please include Unit Price for each item listed even if no activity is shown. Also, highlight any changes to descriptions or measurement units in both the written and electronic responses.**

Service Description	AFP Service Code	Volume (x)	Unit Price (=)	Estimated (Monthly) Service Charge
<b><u>Balance &amp; Compensation Information</u></b>				
Recoupment Monthly IB	00 0230	2,977	-	-
<b><u>General Account Services</u></b>				
Account Maintenance	01 10000	-	-	-
Statement Cycles	01 0307	-	-	-
Account Maintenance	01 0010	4	-	-
DDA Statement - Paper	01 0310	4	-	-
DDA Statement - Electronic	01 0410	-	-	-
Post No Checks Maintenance	1500ZZ	-	-	-
Client Analysis Statement - Paper	01 0410	1	-	-
Client Analysis Statement - Electronic	-	1	-	-
<b><u>Banking Center Services</u></b>				
Branch Credits Posted	10 0000	-	-	-
Branch Deposit - Immediate Verification	10 0000	-	-	-
Branch Deposit - Post Verification	10 0007	-	-	-
<b><u>Depository Services</u></b>				
Desktop Deposit - Credit Posted	01 0101	7	-	-
Deposited Items - Desktop	10 0224	18	-	-
Checks Deposited	10 0220	-	-	-
Return Items	10 0400	-	-	-
Return Item Redeposit	10 0402	-	-	-
<b><u>Disbursement Services</u></b>				
Check/Debits Posted - Electronic	01 0100	46	-	-
DDS Checks Paid	15 0100	141	-	-
MICR Check Rejects Over 2%	15 0300	11	-	-
Stop Payment - Paper Confirmation	15 0499	-	-	-
Check Cashing Non-Acct. Holder	15 0500	1	-	-
Imaging Maintenance	15 1350	-	-	-
Image Retrieval	15 1352	-	-	-
Check Inquiry Maintenance	15 1710	-	-	-
Paper Check Return	15 9999	-	-	-

<b>Service Description</b>	<b>AFP Service Code</b>	<b>Volume (x)</b>	<b>Unit Price (=)</b>	<b>Estimated (Monthly) Service Charge</b>
<b><u>Automated Clearing House</u></b>				
ACH Payments Base Fee	25 0000	1	-	-
Debit Originated - Access	25 0100	-	-	-
Credit Originated - Access	25 0101	-	-	-
ACH Received Item	25 0202	118	-	-
ACH Payments Future Dated Items	25 0102	104	-	-
ACH Originated - Addenda Rec.	25 0120	17	-	-
Debit Received	25 0200	-	-	-
Electronic Credits Posted	25 0201	102	-	-
ACH Payments Batch Release (P/R)	25 0500	12	-	-
Return Item	25 0302	-	-	-
Return Item Redeposited	25 0310	-	-	-
Return Notification - Online	25 0400	-	-	-
<b><u>Wire &amp; Other Fund Transfers</u></b>				
Wire Out - USA Acct.	35 9999	1	-	-
Wire Into USA Acct. - USA Domestic	35 0300	5	-	-
Mail Wire Confirmation	35 0412	8	-	-
Wire Out Domestic	35 0100	12	-	-
Wire Book Transfer	35 0120	3	-	-
Wire Out Xbdr US D	35 0113	1	-	-
Electronic Fed Debit	35 0104	-	-	-
FED Credit	35 0124	-	-	-
Book Credit	35 0320	-	-	-
<b><u>Information Services</u></b>				
Desktop Deposit Monthly Base	40 0003	4	-	-
CEO Prev. Day Reporting Subscription	40 0052	1	-	-
CEO Prev. Day Reporting Items Loaded	40 0271	248	-	-
Monthly Service	40 0610	-	-	-
<b><u>Security Clearance - Safekeeping</u></b>				
Security Clearance Charges/Trade		-	-	-
Security Clearance Charges/Trade/Fed		-	-	-
Security Clearance Charges/Trade/DTC		-	-	-
Safekeeping Charges/Month		-	-	-
Safekeeping Charges/Security/Month/Fed		-	-	-
Safekeeping Charges/Security/Month/DTC		-	-	-
<b>Monthly Total Estimated Fees, except one-time charges</b>				<b>\$ -</b>

Service Description	AFP Service Code	Volume (x)	Unit Price (=)	Estimated (Monthly) Service Charge
<b>Other</b>				
Endorsement Stamps (one time charge)		-	-	-
Checks & Deposit Slips		-	-	-
ACH Software Charge		-	-	-
CD-ROM Software Charge		-	-	-
Per RFP Requirements - Other Fees		-	-	-
Per RFP Requirements - Other Fees		-	-	-
Per RFP Requirements - Other Fees		-	-	-
<b>Total Other Estimated Fees, including one-time charges</b>				<b>\$ -</b>

## RESPONSE ATTACHMENTS

1. ACCOUNT ANALYSIS – A **pro-forma** account analysis statement using your format & service descriptions that reflect your proposed fees based on the volumes provided in the RFP and indicate any capability to provide the information electronically.
2. RATE BASIS – Explanation of the institution's policy and methodology used in setting rates paid on interest bearing accounts and accounts analysis earnings credit. Indicate if they are based on a market rate such as T-Bill discount or yield rate, or the Federal Funds rate, etc., and when the rates are changed. Also, please provide a historical schedule of rates paid.
3. SAMPLE COLLATERAL AGREEMENT.
4. SECURITY MEASURES – Information describing the institution's security measures to prevent fraud and unauthorized electronic and non-electronic transfers and protect the integrity of computer banking services and internal computer systems.
5. TECHNOLOGY SPECIFICATIONS – Technology specifications for use of all proposed electronic systems and services.
6. SAMPLE SAFEKEEPING REPORT – Sample safekeeping report of the Port owned securities that the Port will receive monthly.
7. SECURITIES SAFEKEEPING FEES – Schedule of Securities Safekeeping Fees.
8. SUMMARY BUSINESS CONTINUITY PLAN – Summary of the institution's business continuation plans as they pertain to the Port's ability to perform normal banking functions during natural and unnatural operation disruptions, including a Statement of Commitment to provide the Port continuous and ongoing bank depository services to the best of the financial institution's ability.
9. REFERENCES – List of at least three (3) comparable references and current Texas public funds clients, with total number of collateralized Texas public fund clients.
10. SAMPLE FIRREA COMPLIANT DOCUMENT – A sample copy of the Bank's document that clearly shows that the Bank's Board or designated committee has accepted the depository contract and authorized the pledge of collateral, with a permanent record of this action to be maintained in the minutes of the Bank.
11. BANK SERVICES AGREEMENTS – Please attach copies of all bank services agreements (i.e., Funds Transfer Agreement, ACH Agreement, Information Reporting Agreement, etc.)
12. INVESTMENT POLICY AFFIDAVIT – Signed copy of the Investment Policy Affidavit.

**INVESTMENT POLICY AFFIDAVIT**

**PORT OF PORT ARTHUR NAVIGATION DISTRICT  
INVESTMENT POLICY AFFIDAVIT**

This certification is executed on behalf of the Port of Port Arthur Navigation District of Jefferson County, Texas (the Port) and \_\_\_\_\_ (the Firm) pursuant to the Public Funds Investment Act, Chapter 2256, Government Code, Texas Codes Annotated (the Act) in connection with investment transactions conducted between the Port and the Firm.

The undersigned Authorized Representative of the Firm hereby certifies on behalf of the Firm that:

1. The Authorized Representative is duly authorized to execute this Certification on behalf of the Firm, and
2. The Authorized Representative has received and reviewed the Investment Policy furnished by the Port, dated October 2020, and
3. The Firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Firm and the Port that are not authorized by the Port's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's portfolio or requires an interpretation of subjective investment standards.

Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Printed)

\_\_\_\_\_  
Firm Name (Printed)

\_\_\_\_\_  
Registered Principal-Name, Title)

\_\_\_\_\_  
Registration or Dealer #

\_\_\_\_\_  
Date

Please submit this completed and signed form to the Port's Investment Officer

**INVESTMENT POLICY**

PAGES: 31-1 to 31-15

# **Investment Policy**

(October 2020)

**Port of Port Arthur Navigation District of Jefferson County Texas**

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Port of Port Arthur Navigation District  
of Jefferson County, Texas

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# **Port of Port Arthur Navigation District of Jefferson County, Texas**

## **I. INTRODUCTION**

The goal of the Port of Port Arthur Navigation District's (the Port) Investment Policy is the safety of all funds of the Port, the availability of those funds for the payment of all necessary obligations of the Port, and to provide for the investment of all funds, not immediately required, in securities earning a reasonable market yield.

## **II. PURPOSE**

This Policy provides the guidelines by which the Port will provide protection for its principal and liquidity, while receiving the highest reasonable market yield in accordance with its objectives. This Policy complies with the provisions of the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, hereinafter referred to as the "Act", as amended. The Act is found online at:

<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2256.htm>

The Board of Commissioners ("the Board") must approve any modifications to, and shall review and adopt this Policy, not less than annually.

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of that person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

## **III. SCOPE**

This Policy applies to the investment activities of all funds of the Port, including the general operating funds, promotion and development funds, debt service funds and bond funds.

The investment of bond proceeds and other restricted funds (including debt service and reserve funds) shall be governed and controlled by this Policy, the statutory provisions governing the debt issuance, the respective bond resolutions and provisions of the IRS Code, including all regulations and rulings promulgated thereunder applicable to the issuance of tax-exempt obligations. It is the policy of the Port that, giving due regard to the safety and risk of investment, all available funds shall be invested in conformance with the Act, Federal Laws and Regulations, requirements of bond documents for the Port's bond issues, and this Policy.

The Policy shall be presented to anyone offering to sell the Port an investment and those with management/advisory responsibility for any Port funds to assure that the goals and guidelines are followed.

#### **IV. INVESTMENT OBJECTIVES**

The Port's overall objective, in order of priority, shall be safety of principal, liquidity, diversification, and yield.

##### **Safety**

The primary objective of the Port's investment activity is the preservation of capital. Each investment transaction shall be conducted in a manner to avoid capital losses, whether they are from security defaults, safekeeping, or erosion of market value. All investments will be high quality securities with no perceived default risk.

##### **Liquidity**

The Port's investment portfolio shall be structured to meet all expected obligations. This shall be achieved by matching investment maturities with forecasted cash flow liabilities and maintaining additional liquidity for unexpected liabilities. Liquidity shall also be protected in high-credit quality securities with active secondary markets. Short-term investment pools, money market mutual funds and depository accounts may be used to provide daily liquidity or utilized as a competitive yield alternative to fixed maturity investments.

##### **Marketability**

The Port's investments shall be of the nature that should the need arise to liquidate the investment before maturity, a sufficient market is available for such sale.

##### **Diversification**

The Port's portfolio shall be diversified by market sector and maturity in order to avoid over concentration in any market sector or issuer. Diversification minimizes the risk to the overall investment portfolio or potential losses on individual securities and enhances overall safety. Investment maturities shall be staggered through the budget cycle to provide cash flow based on the anticipated needs of the Port.

##### **Yield**

Attaining a competitive market yield within portfolio restrictions is the objective. The primary benchmarks for the Port's portfolio shall be the six-month and one-year U.S. Treasury securities, designated for its comparability to the Port's expected average cash flow pattern, and allowing for liquidity needs of the Port. The investment program shall seek augment returns above this threshold consistent with risk limitations identified herein and prudent investment policies. A secondary objective will be to obtain yields equal to or in excess of the state's local government pool.

It must be recognized that portfolio yields always lag market rates during periods of changing interest rates because existing portfolio investments must mature before re-investment at new rates.

The Port shall avoid any transactions that impair public confidence in the Port's ability to govern effectively. The Port recognizes that in diversifying the portfolio, occasional measured unrealized losses due to market volatility are inevitable and must be considered within the context of the overall Portfolio. The prudence of investment decisions shall be measured in context of the entire portfolio (2256.006(b)).

## V. INVESTMENT STRATEGY

Regardless of market conditions, to fulfill the objectives of the Port the investment strategy for operating funds has as its primary objective that anticipated cash flows are matched for adequate liquidity. A liquidity buffer, with at least 10% of total funds invested in a highly liquid security, will be maintained for unanticipated needs. The secondary objective is to create a portfolio that will experience minimal volatility during economic cycles.

Funds which are not anticipated to be required for operational purposes will be invested in order to capture available market yield within policy parameters. The investment strategy for these funds is designed to generate revenue with a low degree of volatility and market risk. Market conditions and interest rate forecasts will largely determine the dynamic portfolio structure of these funds.

To accomplish this strategy the Port will purchase high credit quality, short to medium-term investments with active secondary markets that complement each other and provide liquidity, marketability and diversification. The maximum dollar weighted average maturity (WAM) of the total portfolio shall be 365 days or less and calculated using the stated final maturity date of each security.

Effective cash management is recognized as essential to good fiscal management and to maximize investment interest as a viable and material revenue source. Cash management is defined as the process of managing monies to maximize cash availability and yields on all funds. It encompasses the processing from invoicing to collection and the flow of funds from receipts through expenditure. The Port shall maintain an active management program that includes invoicing and collections of accounts receivable on a timely basis, timely vendor payments in accordance with invoice terms, and prudent investment of all of its funds.

The Port has a proactive "buy and hold" portfolio strategy. Maturity dates are matched with anticipated cash flow requirements as necessary and investments are purchased with the intent to be held until maturity. However, securities may be sold before they mature if market conditions present an opportunity for the Port to benefit overall from the trade. Securities may be sold for the following reasons:

- A security with declining credit may be sold early to minimize the risk of loss of principal;
  - A security swap would improve the quality, yield or target duration in the portfolio and result in a positive horizon value of the swap;
  - Liquidity needs of the portfolio require that a security be sold.
- a. **Operating Funds** must meet anticipated cash flow needs with adequate investment liquidity. This may be accomplished by purchasing high credit securities matched to known liabilities in laddered structure and/or investments in a State run, highly liquid investment pool.
  - b. **Funds Available for Investment**, do not have immediate liquidity needs and therefore have as their primary objective the generation of incremental income through safe medium term investments. The funds are normally invested longer than one year to capture reasonable yield.
  - c. **Construction Funds (Bond Proceeds)** must be available to meet the needs of the construction schedules and therefore shall be invested in a laddered investment structure with maturities of less than two years, or in investment pools.

- d. **Debt Service and Debt Service Reserve Funds** must be available to meet scheduled principle and interest payments on long term debt. Funds shall be invested in State ran, highly liquid investment pool . Further investment may then be made in investments with structured maturities so that adequate cash on hand will be available to make the scheduled payments.

## VI. RESPONSIBILITY AND CONTROL

### A. Delegation of Authority

#### Investment Officers

In accordance with Section 2256.005(f) of the Act, the Board of Commissioners shall designate, by resolution, the Director of Finance and one Commissioner of the Board, the Secretary-Treasurer, as investment officers responsible for the investment of Port funds. The authority granted to the Investment Officers is effective until rescinded by the Port Commission Board or until termination of the person's employment with the Port.

The Investment Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the investment activities of the Port. To strengthen control over investment transactions, any purchase, withdrawal or transfer of investments, must be authorized in writing by either the Port Director (or in the event the Port Director is unable, by or Commissioner) and either the Director of Finance or other investment officer designated by the Board. Accordingly, the Director of Finance shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures.

The Port Commission may contract with a SEC registered investment management firm to provide for the investment and management of funds under its control. The investment advisor(s) in the investment management firm are considered to be the Investment Officer(s) of the Port. The initial contract made under authority of this subsection may not be for a term longer than two years (2256.003(b)), and the Port Commission must approve any renewal or extension of such contract. Authority granted to invest the Port's funds is effective until rescinded by the Port Commission or until expiration of the contract with the Port.

In the administration of the duties of an Investment Officer, the Investment Officer(s) shall exercise the judgment and care, under prevailing circumstances that a prudent person would exercise in the management of the person's own affairs, but the Port Commission of the Port retains ultimate responsibility as fiduciaries of the assets of the Port. Unless authorized by law or resolution of the Commissioners, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the Port.

## **Port Commission**

The Port Commission has the ultimate fiduciary responsibility for the investments of the Port's assets. It is required by the Act to:

- Designate authority of Investment Officers by resolution,
- Adopt the Investment Policy and Strategy at least annually,
- Review quarterly investment reports, and
- Provide for training of investment officers.

## **Investment Advisor**

Any Investment Advisor contracted by the Port is required to comply with this Policy in all transactions.

### **B. Training**

The investment officers must obtain training in accordance with Section 2256.008 of the Act. The Investment Officers shall attend at least one ten-hour investment training session within twelve months of taking office or assuming duties and receive not less than ten hours of instruction relating to investment responsibilities every succeeding fiscal two years. The following organizations currently provide this training:

- Government Finance Officers Association
- Government Finance Officers Association of Texas
- Government Treasurers Organization of Texas
- Association of Public Treasurers US & Canada
- Texas Municipal League
- University of North Texas, Center of Public Management

If the Investment Officer desires to attend an investment training seminar presented by another organization, the Port Board must approve such training.

### **C. Internal Control**

An internal control structure shall be established and maintained by the Director of Finance to protect the assets of the Port from loss, theft or misuse. The structure should recognize that (1) the cost of control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management. Accordingly, the Port shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures of the Act.

### **D. Prudence**

The standard of prudence to be used by the Investment Officers shall be the "Prudent Person Rule", as set forth in Section 2256.006 of the Act and will be applied in the context of managing the overall portfolio:

"Investments shall be made with judgment and care under circumstances then prevailing - which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

Investment officers acting in accordance with written procedures and this Policy and exercising due diligence do not have personal responsibility for an individual security's credit risk or market price change, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

***E. Ethics and Conflicts of Interest***

Investment Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution and management of the investment program, or which could impair their ability to make impartial decisions. Investment Officers and employees shall disclose to the Board any material interests in financial institutions that conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the Port.

Anyone involved in investing Port funds shall file with the Port and Texas Ethics Commission a statement disclosing any personal or business relationship and any material financial interest in a business organization that handles Port's investments.

An Investment Officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Port shall file a statement disclosing that relationship with the Port Commission and the Texas Ethics Commission.

**VII. AUTHORIZED INVESTMENTS**

Assets of the Port may be invested in the following instruments as authorized and further defined by the Act.

1. Obligations of the US Government, its agencies and instrumentalities with a maximum stated maturity of three-years.
2. Direct obligations of this State or its agencies and instrumentalities.
3. Fully insured or collateralized depository certificates of deposits issued by banks authorized to do business in Texas, collateralized in accordance with this Policy, under the terms of a written agreement, and with a maximum stated maturity of three years.
4. Fully collateralized repurchase agreements with a defined termination date secured in accordance with this Policy and placed with a primary securities dealer. All repurchase agreements transactions shall be governed by an executed Bond Market Master Repurchase Agreement. The maximum stated maturity shall be 90 days for bonds fund flex repurchase agreements, which will match expenditure plans on the bond funds.

5. Investment Pools as defined by the Act and specifically approved by resolution of the Port Commission. Approved investment pools must be continuously rated no lower than AAA or an equivalent rating by at least one nationally recognized rating agency and have a weighted average maturity no greater than ninety (90) days.
6. A SEC registered Money Market Mutual Fund in compliance with SEC Rule 2a-7 and whose assets consist exclusively of obligations of the US Treasury, its agencies or instrumentalities and a repurchase agreement backed by those securities.
7. Interest bearing accounts in banks doing business in Texas.
8. Federal Deposit Insurance Corporation (FDIC) insured brokered certificates of deposits from a bank in any US state, delivered versus payment to the Port's safekeeping agent, not to exceed three years to maturity. Before purchase, the Investment Officer/Advisor must verify the status of the FDIC status on the institution on [www.fdic.gov](http://www.fdic.gov) to assure that the bank is FDIC insured.
9. General Obligations of states, agencies, countries, cities and other subdivisions of any US state rated as to investment quality by a nationally recognized investment rating firm not less than AA or its equivalent with a stated maturity of not more than three years.

If additional types of securities are approved for investment of public funds by state statute, they will not be eligible for investment by the Port until this Policy has been amended and the amended version adopted by the Port Commission. Should an investment type become unauthorized by the Act or this Policy, existing positions need not be liquidated without prudent consideration of the impact on the entire portfolio. The Port Commission shall be notified of the change immediately.

## VIII. INVESTMENT PARAMETERS AND CONTROLS

### **Diversification**

The Port recognizes that investment risks result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification which shall be achieved by the following general guidelines:

- Avoiding over-concentration in securities from a specific issuer or business sector;
- Limiting investment in securities that have potential credit risks;
- Laddering securities with varying maturities to match cash flow, and;
- Maintaining a liquid portion of the portfolio in readily available funds such as local/state government investment pools, money market funds, bank liquidity options, or overnight repurchase agreement to ensure the appropriate liquidity is maintained in order to meet ongoing obligations.

### **Competitive Quotes or Offers**

All transactions will require competitive solicitation of bids or offers except for:

- Transactions with money market mutual funds and local government investment pools;
- Automatic overnight "sweep" transactions with the Port's Depository.



At least two bids or offers must be solicited for transactions involving individual securities and certificates of deposit. The Port's investment advisor is also required to solicit two bids or offers when transacting trades on the Port's behalf. In situations where other dealers do not offer the exact security being offered, offers on the closest comparable investment may be used to establish a fair market price for the security. Securities purchased at issue must be compared to other similar offerings to determine competitive value.

### **Delivery vs. Payment**

All security transactions will be executed on a delivery versus payment basis. That is, Port funds shall not be released until the security or collateral has been received by the custodian. Securities shall be held in the name of the Port or pledged to the Port. The Custodian's records shall affirm the Port's ownership of the securities. The original copy of all safekeeping receipts shall be delivered to and maintained by the Port.

### **Monitoring Credit Quality**

The Investment Officer or Investment Adviser shall monitor the credit rating on all authorized investments in the portfolio which require a rating based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by this Policy, the Investment Officer or adviser shall notify the Port Commissioners, indicating conditions affecting the rating and possible loss of principal with liquidation options available.

### **Monitoring FDIC Status**

The Investment Officer or Investment Adviser shall monitor the status and ownership of all banks issuing brokered CDs owned by the Port based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Adviser shall immediately liquidate any brokered CD which places the Port above the FDIC insurance level.

## **IX. FINANCIAL COUNTER-PARTIES**

### **Broker/Dealers**

The Investment Officer shall provide to the Port Commissioners for approval, at least annually, a list of authorized broker/dealers and financial institutions authorized to engage in investment transactions. Transactions may be executed only with broker/dealers on the authorized list. In order to be considered, those firms that desire to become qualified broker/dealers for investment transactions will be required to provide information regarding creditworthiness, experience and reputation.

Financial institutions offering only certificates of deposits need not be on the authorized list but must provide all required Port information before the transaction is made. Authorized firms may include primary dealers or regional broker//dealers and qualified depositories as established by Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). A list of not less than three broker/dealers shall be maintained to assure a competitive process.

All financial institutions and broker/dealers who desire to transact business with the Port must supply the following documents to the Investment Officer or Investment Adviser (as applicable):

- Current year and annual audited financial statements;
- Financial Industry Regulatory Association (FINRA) certification and FINRA Central Depository Registration (CRD) number;
- Proof of Texas State Securities Registration (broker/dealer)
- Certification of Policy review.
- Completion of questionnaire detailing contact and experience.

### **Certification**

A written copy of the current Investment Policy shall be presented to any firm offering to engage in an investment transaction with the Port. Investments shall only be made with those business organizations (including money market funds and local/state government investment pools), which have provided the Port with a written instrument executed by a qualified representative of the firm, in a form acceptable to the Port and the business organization substantially to the effect that the business organization has:

- Received and reviewed the Port's Investment Policy, and;
- Implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Port and the organization that are not authorized by the Port's Investment Policy.

### **Depositories**

At least every five years the Port will designate one banking institution through a competitive process as its central banking services provider. In selecting a depository, the services, cost of service, credit worthiness, earnings potential, and collateralization of each financial institution shall be considered. This institution will be used for normal banking services including disbursements, deposits, and safekeeping of securities. Certificates of deposits may be purchased from this depository on a competitive basis.

Depository/collateral agreements executed in accordance with FIRREA will be established before funds are deposited.

Other banking institutions from which the Port may purchase certificates of deposits will also be designated as depositories and must execute a written depository contract in accordance with the collateral provisions of this Policy as applicable.

### **Safekeeping of Port Owned Securities**

All securities owned by the Port (including repurchase collateral) will be **delivery versus payment** (DVP) into a Port approved custodial arrangement. The custodian shall be a party independent from the trade.

### **Safekeeping of Securities Pledged to the Port**

All securities pledged to the Port by a financial institution will be held with a Port approved custodian. The custodian shall be a party independent from the pledging bank.

## **X. COLLATERAL**

Consistent with requirements of the Public Funds Collateral Act (Texas Government Code, 2257), the Port requires that all time and demand deposits of Port funds shall be secured by pledged collateral with a market value equal to or greater than **102%** of the principal plus accrued interest on deposit less an amount insured by FDIC.

All collateral shall be held in an independent third party institution outside of the holding company of the depository and approved by the Port. The custodian will provide evidence of proper collateralization in the form of original safekeeping receipts and provide monthly reports directly to the Port listing the collateral held.

Substitution rights are granted but new collateral must be pledged before existing collateral is released to the depository by the custodian. The depository shall be contractually liable for the monitoring and maintaining of collateral daily.

The Port shall accept only the following as collateral:

- FDIC insurance coverage;
- Obligations of the United States of America, its agencies and instrumentalities including mortgage-backed securities which pass the bank test of the Federal Reserve.
- If a depository offers pooled collateral under the purview of the State Comptroller, the Investment Officers will review the program and present a recommendation to the Port Commissioners. Use will require approval by the Port Commissioners.

### **Repurchase Agreements (Owned Collateral)**

Collateral under a repurchase agreement is owned by the Port. It will be held by an independent third party in safekeeping approved by the Port under the terms of an executed Bond Market Association Master Repurchase Agreement. Collateral with a market value totaling 102% of the principal and accrued interest is required and the counter party is responsible for the daily monitoring and maintaining of collateral and margins.

## **XI. REPORTING**

The investment Officers/Adviser will provide monthly and quarterly reports and provide quarterly reports to the Port Commissioners, within a reasonable time after the end of each quarter.

The quarterly report shall contain at a minimum the following:

- Signatures of each Investment Officer(s);
- A summary statement prepared in compliance with generally accepted accounting principles that states the:
  - Beginning and ending market value for portfolio for the reporting period; Additions and changes to the market value during the period;
  - Fully accrued interest and amortized earnings for the reporting period;
- Statement of book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset invested;
- Statement of maturity date of each separately invested asset;
- Statement of the account or fund for which each individual investment was acquired;

- Statement of the overall weighted yield on the portfolio and the yield for the benchmark(s); and,
- Statement of the compliance of the investment portfolio as it relates to:
  - The investment strategy in the Port's Investment Policy; and
  - Relevant provisions of the Act.

Pricing for valuation purposes shall be obtained from independent sources.

The Port's external, independent auditor will conduct an annual review of the quarterly reports in conjunction with the annual financial audit. The results of the audit will be reported to the Port Commission upon receipt. The audit will review compliance with management control on investments and adherence to this Investment Policy.

## **XII. INVESTMENT POLICY ADOPTION**

The Port's Investment Policy shall be subject to revisions to remain current with changing laws, regulations, market conditions, and needs to the Port, and shall be reviewed annually by the Port Commission. The Investment Officers will recommend any changes or modifications to the Port Commission for review and adoption. The Port's Investment Policy shall be adopted by resolution of the Port Commission and that resolution will include any changes made to the Policy.

This Investment Policy shall be effective immediately upon adoption, as of the 21<sup>st</sup> day of October 2020.

Port of Port Arthur Navigation District  
of Jefferson County, Texas

CERTIFICATION  
By  
INVESTMENT FIRM

This certification is executed on behalf of the Port of Port Arthur Navigation District of Jefferson County, Texas (the Port) and \_\_\_\_\_ (the Firm) pursuant to the Public Funds Investment Act, Chapter 2256, Government Code, Texas Codes Annotated (the Act) in connection with investment transactions conducted between the Port and the Firm.

The undersigned Authorized Representative of the Firm hereby certifies on behalf of the Firm that:

1. The Authorized Representative is duly authorized to execute this Certification on behalf of the Firm, and
2. The Authorized Representative has received and reviewed the Investment Policy furnished by the Port, dated October 2020, and
3. The Firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Firm and the Port that are not authorized by the Port's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's portfolio or requires an interpretation of subjective investment standards.

Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Printed)

\_\_\_\_\_  
Firm Name (Printed)

\_\_\_\_\_  
Registered Principal-Name, Title)

\_\_\_\_\_  
Registration or Dealer #

\_\_\_\_\_  
Date

Please submit this completed and signed form to the Port's Investment Officer

**RESOLUTION RELATED TO REVIEW OF  
INVESTMENT POLICY AND STRATEGIES  
PORT OF PORT ARTHUR NAVIGATION DISTRICT  
Of  
JEFFERSON COUNTY, TEXAS**

**WHEREAS, Section 2256.005(e), Texas Government Code, as amended, requires the governing body of an investing entity to review its investment policy and investment strategies not less than annually; and**

**WHEREAS, Section 2256.005(e), Texas Government Code, as amended, further requires the governing body to adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies; and**

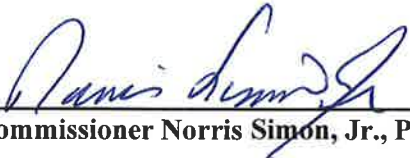
**WHEREAS, the Port Commission of the Port of Port Arthur Navigation District of Jefferson County, TX wishes to fully comply with the provisions of Section 2256.005(e), Texas Government Code; and**

**WHEREAS, the Port Commission did on this date review its investment policy and investment strategies in a properly posted public meeting;**

**NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF PORT ARTHUR NAVIGATION DISTRICT OF JEFFERSON COUNTY, TEXAS AS FOLLOWS:**

- Section 1     The Port Commission hereby approves and adopts the Port of Port Arthur's Investment Policy (dated October 2020), including the investment strategies contained therein, in the form presented at this meeting.**
- Section 2     The Port Commission hereby designates the Director of Finance and Secretary-Treasurer of the Board of Commissioners, as investment officers responsible for the investment of Port funds.**
- Section 3     This resolution is adopted by the Port Commission, this 21<sup>st</sup> day of October 2020**

(Seal)

  
\_\_\_\_\_  
Commissioner Norris Simon, Jr., President

  
\_\_\_\_\_  
Commissioner Randy T. Martin, Secretary-Treasurer

**DIVERSITY IN CONTRACTING POLICY DIRECTIVE**

PAGES: 32-1 to 32-7

# Port of Port Arthur Navigation District of Jefferson County, Texas

## POLICY DIRECTIVE ON DIVERSITY IN CONTRACTING

Adopted     JUNE 24,    , 2020

### SECTION 1. Purpose.

The Board of Commissioners of the Port of Port Arthur have determined a need to increase the number of local, minority, veteran and women owned businesses utilized on Port contracts. The purpose of this policy directive is to increase the utilization of Port revenues from taxes and operations to assist local, minority, veteran and women owned businesses by providing increased opportunities for participation in contracting for public works, consulting services, supplies, material, equipment, and other services required by the Port.

### SECTION 2. Definitions.

For the purposes of this policy directive:

“Affirmative efforts” means documented reasonable attempts in good faith to contract with minority, veteran and women owned businesses.

“Availability” or “available” means a business that is interested in and capable of performing the work within the time frame required and to the quality specified in the solicitation and contract.

“Capability” or “capable” means that a business appears able to perform a commercially useful function in performance of the work.

“Commercially useful function” means the performance of real and actual services in the discharge of any contractual endeavor.

“Contract” means an agreement for public works, consulting services, supplies, material, equipment, or other services.

“Contractor” means a business that has a contract with the Port.

“Local” means within the boundaries of the Port of Port Arthur Navigation District of Jefferson County, Texas.

“Local Plus” means within the nine county region comprised of Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers counties, as well as the Bolivar Peninsula area of Galveston County.

“Relevant demographic data” is defined as, but not limited to, Asian-Pacific Americans, Black Americans, Hispanic Americans, Native Americans, Asian, and Women, and other characteristic information related to a business owner’s



sexual orientation, sex/gender, race, ethnicity, physical ability, or veteran status as self-reported and/or certified by another government entity, as deemed necessary or relevant to eliminating disparity in Port contracting.

“Utilization” is defined as both the percent of contracting dollars paid to MVW firms as well as the number of MVW firms under contract.

“Minority, veteran, or women owned business” (MVW) means a business that is at least 51 percent owned and controlled by minorities, veterans and/or women (including, but not limited to Asian-Pacific Americans, Black Americans, Hispanic Americans, Native Americans, Asian, Service-Disabled Veterans, and Women, and other characteristic information related to a business owner’s sexual orientation, sex/gender, race, ethnicity, physical ability, or veteran status as self-reported and/or certified by another government entity, as deemed necessary or relevant to eliminating disparity in Port contracting).

### **SECTION 3. Scope and Applicability.**

This policy directive shall apply to all types of procurement contracts with the Port, including construction and consulting contracts, purchased goods, and services.

### **SECTION 4. Responsibilities.**

The Board of Commissioners shall establish goals to increase MVW utilization for the Executive Director and staff in Port contracts and shall:

- A. Expand opportunities for MVW firms across Port functions, wherever practicable;
- B. Pursue the goal to substantially increase the number of MVW firms that contract with the Port and thereby substantially increase the percentage of dollars spent on MVW contracts, effective immediately upon the adoption of this policy directive;
- C. Within 120 days of adoption of this policy directive, develop a Diversity in Contracting Program that identifies affirmative efforts to afford MVW owned businesses the maximum practicable opportunity to participate in Port contracts;
- D. Incorporate the MVW goals into the Port’s Diversity in Contracting Program to the fullest extent reasonable, including incorporation into scorecards, reports, and project plan updates. The Port shall prepare and publish an annual report each year entitled “Port of Port Arthur Diversity in Contracting Annual Report”;
- E. Establish and improve outreach efforts to increase and sustain MVW participation in Port contracting;  
and
- F. Take affirmative efforts to assure equality of contracting opportunity through the development and application of inclusion plans or other tools as necessary.

### **SECTION 5. Policy.**

- A. The Port’s Diversity in Contracting Program shall include:
  - (1) Responsibilities, policies, practices, and processes that can improve the Port procurement and contracting processes to provide a more receptive environment for the utilization of MVW firms, and

to ensure that businesses and contractors of all tiers working on Port contracts and subcontracts utilize MVW firms, wherever feasible or as required;

(2) Development of a standard procedure for the Port-wide MVW goal setting, and collection and reporting of relevant demographic data to be stored in a central database;

(3) Identify categories of contracts that will require MVW inclusion plans and other tools that will be applied to other categories of contracts Port-wide;

(4) Clear lines of responsibility and accountability for implementation of the MVW program; and

(5) Make MVW goal-setting and affirmative implementation efforts part of the annual performance evaluation for each Port department head/supervisor and require standardized MVW program training, implementation, and coordination for all department leaders and their MVW representatives.

B. The Port's Diversity in Contracting Annual Report shall include:

(1) The Port's prior year increase in utilization of MVWs to reduce disparity in Port contracting; and

(2) The achievement of goals by department for MVW utilization based on:

(a) Each Port department head/supervisor's review of future procurements to identify available firms on upcoming contracts to create a utilization goal that is justifiable, bold, and challenging; and

(b) Construction goals based on historic utilization plus an established percentage, until such time that a disparity study or other valid internal data can demonstrate a reasonable level of utilization.

C. To improve inclusion and outreach to improve and sustain MVW participation and to reduce disparity in Port contracting, the Port shall:

(1) Support training and assistance to Port staff to increase participation in outreach and to learn about the internal and external resources available to include MVW firms in the Port's procurement and contracting;

(2) Improve and expand technical assistance, including MVW certification, business development, training, and mentoring programs for MVW firms to enhance bidding expertise and promote greater coordination with advocacy organizations, businesses, individuals, and public agencies and other Port departments;

(3) Create opportunities for members of the contracting and vendor community, Port, and other stakeholders to work collaboratively on recommendations for the Port to more effectively use the directives in this policy directive;

(4) Assist contractors desiring to bid on Port contracts to comply with the affirmative efforts provisions for such contract, and offer information as to organizations and agencies available to

assist such contractors in recruiting, mentoring, training, or otherwise preparing potential subcontractors; and

(5) Cooperate and establish formal and/or informal partnerships and mutual cooperation with other public agencies to carry out the purposes of this policy directive, as needed.

D. Affirmative efforts to assure equality of contracting opportunity required:

(1) Develop procurement tools, such as MVW inclusion plans, and require bidders and proposers to comply with the MVW solicitation requirement in order to improve and sustain participation of MVW in Port contracts;

(2) Identify and implement a Port-wide method to regularly monitor and measure the Port MVW program and attainment of goals by contractors;

(3) Establish goals for participation of MVW owned businesses in a particular Port contract on a case-by-case basis;

(4) Work closely with other departments to ensure all policies, practices, and processes are consistent and complementary to make it easier for MVW firms to pursue Port contracts; and

(5) Review certifications and determine whether vendors meet program requirements.

E. Affirmative efforts in subcontracting:

(1) All contractors, including MVW firms, shall actively solicit bids for subcontracts to qualified, available, and capable MVW businesses to perform commercially useful functions;

(2) Contractors shall consider the grant of subcontracts to MVW bidders on the basis of substantially equal proposals in the light most favorable to MVW businesses;

(3) At the request of the relevant Port department, when inclusion plans are required, contractors shall furnish evidence of the contractor's compliance with the Port's requirements for MVW solicitation and will submit evidence of compliance with this section as part of any bid.

(4) Contractors shall provide records necessary to document affirmative efforts to subcontract with MVW businesses on Port contracts;

(5) At any time during a contract in which an inclusion plan is required, Port shall request and contractors shall furnish evidence of the contractor's compliance with these requirements of MVW solicitation and affirmative efforts to subcontract with MVW businesses;

(6) Compliance with all requirements and past performance under this policy directive may be included in the evaluation of future procurements; and

(7) In applying the provisions of this policy directive to contracts funded in whole or in part with federal funds and subject to 49 CFR Part 23, Subpart D, regarding Airport Concessions Disadvantaged Business Enterprises (ACDBE) or 49 CFR 26, Subpart C, regarding Disadvantaged Business Enterprises (DBE), references to Women and Minority Businesses shall also include federally recognized ACDBEs

or DBEs. In the event of a conflict between the provisions of this chapter, or the rules implementing this policy directive, and the requirements of 49 CFR 26, Subpart C, or 49 CFR Part 23, Subpart D, or any other superseding applicable federal statute or regulation, the provisions of the federal statute or regulation shall control.

F. Expanding Opportunity.

(1) The Port shall immediately commence review and recommend measures to expand opportunities for MVW firms in other Port enterprise opportunities, for example real estate leases, to encourage and promote access to Port facilities by MVW firms.

**SECTION 6. Local Preference.**

A. To be deemed a Local business or Local Plus business in this Program, businesses must first successfully complete Registration and provide other documentation as may be reasonably required by the Port.

B. A Local business means a business with its principal place of business within the Port of Port Arthur Navigation District, Jefferson County, Texas.

C. A Local Plus business means a business with its principal place of business within Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers counties, as well as the Bolivar Peninsula area of Galveston County in the State of Texas.

D. Principal place of business means the business must:

(1) Be headquartered within the limits of the applicable jurisdiction as stated in A. or B. above; or

(2) Have an established place or places of business within the limits of the applicable jurisdiction in A. or B. above from which 20% or more of the entity's workforce are regularly based, and from which a substantial role in the entity's performance of a commercially useful function or a substantial part of its operations is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed as a principal place of business.

E. Headquartered means the location where an entity's leadership directs, controls, and coordinates the entity's activities.

F. Local Preference may be appropriate for contracts related to:

(a) any activity or matter incidental to the advertising, development, or promotion of the Port district or its ports, waterways, harbors, or terminals;

(b) furthering the general welfare of the Port district and its facilities; or

(c) the betterment of the Port district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals.

**SECTION 7. Historically Underutilized Businesses (HUB).**

A. A business submitting a bid under the HUB category for a Port project must obtain a HUB Certification from the State of Texas prior to submission.

B. To be eligible for HUB certification in the State of Texas, a business must:

(1) Be a U.S. citizen;

(2) Be a for-profit entity that has not exceeded the size standard prescribed by 34 TAC §20.294 and has its principal place of business in Texas; and

(3) Be at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or a Service Disabled Veteran with a Service related disability of 20% or greater, who resides in Texas and actively participates in the control, operations and management of the entity's affairs.

**SECTION 8. Veteran Owned Businesses.**

A. A business submitting a bid under the Veteran Owned business category for a Port project must complete a Veteran Owned business certification packet from the Port prior to submission.

B. A Veteran Owned business must be at least 51% owned by one or more veterans as defined in 38 USC 101(2).

**SECTION 9. Program Evaluation and Audit.**

A. The Executive Director or his or her designee shall periodically monitor and report benchmarks and metrics to evaluate the Port's Diversity in Contracting Program, including:

(1) Incorporation of these MVW goals into the Port's procurement policies and plans to the fullest extent reasonable, including incorporation into scorecards, reports, and project plan updates.

(2) Specific measures the Port will undertake to increase the participation of MVW firms and to reduce disparities, including the number of events or outreach activities conducted to ensure responsiveness to bid opportunities.

(3) Progress towards specific department MVW utilization goals, including the number of opportunities a department has available, the goals established for those opportunities and the actual utilization, including periodic review of disparity study results, to determine reasonableness of goals.

(4) Data reporting using the standard procedure identified in the MVW program for the Port-wide collection and reporting of relevant demographic data including percent of project dollars spent, number of businesses, and types of procurements.

(5) Preparation and publication of the Port's Diversity in Contracting Annual Report.

B. The Port's Director of Accounting shall include the Diversity in Contracting Program in the Port's annual business plan to monitor and report on adherence to this policy and establish compliance measures for future years as the Director of Accounting deems appropriate.

**SECTION 10. Fiscal Implications.**

Fiscal implications shall be reviewed by the Executive Director annually, at a minimum, to ensure that implementation of this policy directive is adequately resourced and shall submit a budget request as appropriate.