



**PORT OF PORT ARTHUR NAVIGATION DISTRICT  
OF JEFFERSON COUNTY, TEXAS**

**REQUEST FOR QUALIFICATIONS (RFQ 2024-08)  
TO PROVIDE PROFESSIONAL ENGINEERING SERVICES  
FOR**

**Design of Foundation for Standby Generator Pad  
Port Security Grant 2023**

**JUNE 2024**

## **REQUEST FOR QUALIFICATIONS (RFQ 2024-08)**

### **PROFESSIONAL ENGINEERING SERVICES FOR DESIGN OF FOUNDATION FOR STANDBY GENERATOR**

The Port of Port Arthur Navigation District of Jefferson County, Texas (“Owner,” “Port of Port Arthur” or “Port”) is requesting qualification statements for professional engineering services for the design of a foundation for its standby generator (the “Project”) at the Port of Port Arthur facilities. The firm will work directly with the Port’s Director of Engineering.

The Port of Port Arthur has been awarded a Port Security Grant through FEMA (Federal Emergency Management Agency) a component of the Department of Homeland Security fiscal year 2023. The Port of Port Arthur is seeking to contract with a qualified engineering firm to prepare all preliminary and final design plans, specifications, bid, and construction documents and to conduct all necessary interim and final inspections. These services shall be performed in accordance with all local, State, and Federal laws, regulations, and executive orders applicable to this grant program.

Qualification statements will be accepted until **2:00 P.M. local prevailing time, on Wednesday, July 3, 2024**, at the offices of the Port of Port Arthur, 221 Houston Avenue, Port Arthur, Texas 77640 and all submissions received will immediately thereafter be opened and publicly read. Submissions after the date and time above will be returned unopened. Fax and electronic mail transmittals are not acceptable. Submissions via U.S. Mail should be addressed to Post Office Box 1428, Port Arthur, Texas 77641. Submissions via courier should be addressed to 221 Houston Avenue, Port Arthur, Texas 77640.

A copy of the complete Request for Qualifications may be obtained from the Port of Port Arthur website at <http://portpa.com>, or by emailing a letter of interest which includes reference to the Request for Qualifications being requested; company name; mailing address; telephone number and email address of the contact person to:

Ed Long, PE  
Director of Engineering  
Port of Port Arthur  
221 Houston Avenue  
Post Office Box 1428  
Port Arthur, Texas 77641  
Telephone (409)983-2011  
EMAIL: [ed@portpa.com](mailto:ed@portpa.com)

The Port of Port Arthur reserves the right to reject any and all Qualification Statements and waive any informalities.

## **I. PURPOSE.**

The purpose and intent of this Request for Qualifications (RFQ) is to obtain professional engineering services to design for the design of a raised concrete foundation slab (approximately 3-4 feet above ground) to support a 750-kW standby generator that will be located on Port property. The standby generator is not within the scope of this project, but the Port will provide the technical data for the generator for use in the design. The Port of Port Arthur reserves the right to negotiate with any and all individuals or firms that submit proposals, as per the Texas Professional Services Procurement Act. Minority Business Enterprises, Small Business Enterprises, Women Business Enterprises, and labor surplus area firms are encouraged to submit proposals. The Port of Port Arthur is an Affirmative Action/Equal Opportunity Employer.

## **II. BACKGROUND.**

The Port of Port Arthur has been awarded a Port Security Grant to provide a standby generator. The generator requires an engineered concrete foundation pad. The generator and its installation are not a part of the scope of this RFQ. It is the intent of this advertisement and selection process to select and award a single professional services contract to one responder, deemed the most qualified to provide such services.

## **III. SCOPE OF SERVICES.**

- A. All engineering services shall be performed in compliance with all local, State, and Federal laws, regulations, and executive orders as applicable and required by FEMA / Department of Homeland Security.
  
- B. The selected firm shall provide professional engineering design services and limited bidding and construction phase services. Services generally include the preparation of plans, specifications, and construction cost estimates, as necessary, for contractors to prepare and submit competitive sealed bids, as more specifically described below. The Port will prepare and furnish the following items to be included in the contract documents:
  - 1. Notice to Bidders (Bid Advertisement)
  - 2. Instructions to Bidders (can be supplemented by the Consultant)
  - 3. Sample Bid Form
  - 4. Bid Bond form
  - 5. Non-Collusion Affidavit
  - 6. Construction Contract Agreement
  - 7. Performance and Payment Bond forms
  - 8. Insurance Requirements
  - 9. Standard General Conditions of the Construction Contract (2018 EJCDC)
  - 10. Supplemental General Conditions (can be supplemented by the consultant)
  - 11. Current Wage Rates (Davis-Bacon)
  - 12. Diversity in Contracting Program
  - 13. Supplemental Contractor Certifications

- C. Engineering services required under this contract are expected to be generally as described below:

Design Phase

1. Consult with Owner to define the scope of work for design.
2. Perform a site visit to locate any existing utilities within the project area and determine the need for any additional survey or geotechnical work.
3. Prepare a final engineered design and furnish to the owner, one sealed hardcopy set of drawings, specifications, and other contract documents, and a digital copy of same in PDF format for use in competitive bidding.
4. Provide an updated estimate of Probable Construction Cost prior to the bidding phase.

Bidding Phase

1. Assist the Owner in advertising and obtaining bids.
  - a. Owner will coordinate the Bid Advertisement with the Port Arthur News and pay for the advertising costs,
  - b. Owner will furnish a copy of the Bid Documents to the AGC of Southeast Texas,
  - c. Owner will publish the Bid Documents, Addenda, and meeting sign-in sheets on the Owner's website ([www.portpa.com](http://www.portpa.com)) and furnish the same to the Associated General Contractors of Southeast Texas (AGC).
2. Issue addenda as appropriate to interpret, clarify, or expand the bidding documents.
  - a. Engineer will assist the Owner in the preparation and issuance of the addenda (if any) to the bidders.
3. Assist the Owner in determining the qualifications and acceptability of prospective constructors, subcontractors, and suppliers.
4. When substitution prior to the award of contract is allowed by the bidding documents, consultation with and advise the Owner as to the acceptability of alternate materials or equipment proposed by the prospective constructors.
5. Attend the bid opening, prepare bid tabulation summary sheet (and a detailed itemized bid tabulation sheet for unit price contracts), and assist the Owner in evaluating bids or proposals and provide Owner with a written Recommendation of Award of the construction contract.

### Construction Phase

1. Prepare for and conduct a preconstruction conference. Owner will prepare and issue the Notice to Proceed.
2. Review shop drawings and material submittals by the constructor for compliance with the design concepts. Engineer shall keep a submittal log.
3. Review laboratory, shop and mill test reports on materials and equipment.
4. Visit the project site at appropriate intervals as construction proceeds to observe and report on the progress and the quality of the executed work. This is NOT the same as a full-time resident project representative.
5. Issue instructions from the Owner to the constructor, issue necessary interpretations and clarifications of the contract documents, review and make recommendations on required change orders.
6. Make recommendations as to the acceptability of the Work.
7. Prepare sketches required to solve problems due to actual field conditions encountered.
8. Determine amounts of progress payments due (one per month) based upon the degree of completion of the work and prepare a recommendation for issuance of such payments by the Owner.
9. Prepare record drawings from information submitted by the contractor and furnish one hardcopy and one digital (scanned) copy to the Owner.
10. Perform a substantial completion inspection and prepare a punch list of outstanding items. Perform a final inspection and prepare an Engineer's Certificate of Completion and recommendation concerning final payment to the contractor including the release of retainage.

#### **IV. SCHEDULE.**

- A. The task schedule for this project follows:
  1. Issuance of RFQ: June 8, 2024
  2. Deadline for Questions related to RFQ: June 26, 2024, 5:00 PM local time
  3. Statement of Qualifications Due: July 3, 2024, 2:00 PM local time
  4. Firm Selection and begin Contract Negotiations: July 17, 2024
  5. Completion of Final Design: September 18, 2024

#### **V. SERVICES PROVIDED BY PORT OF PORT ARTHUR (Owner).**

In addition to the services provides by the Owner in Section III, the Owner will furnish the offeror with the following:

- a. Generator and ATS data sheets,
- b. Available record information for the project area.

## VI. QUALIFICATION STATEMENT REQUIREMENTS.

- A. Qualification Statements shall be signed by an authorized representative of the Offeror. Qualification Statements shall be prepared simply and economically, providing straight-forward, concise description of the engineering firm's capabilities to satisfy the requirements of the RFQ.
- B. Qualification Statements shall be single spaced, using a font size not less than 12pt and limited to a total of ten (10) one-sided pages. Emphasis should be on completeness and clarity. Resumes and dividers do not count toward the page count.
- C. One (1) manually signed original, four (4) copies, and one (1) electronic copy in PDF format of the Qualification Statements shall be submitted to the Port. Each copy of the submittal shall be bound in a single volume where practical. All documentation submitted with the Qualification Statements shall be bound in that single volume. Elaborate brochures and other representations, beyond which are sufficient to present a complete and effective Qualification Statements, are neither required nor desired.
- D. The following are the minimum requirements to be provided by the Offeror which shall constitute a complete submittal. The format required for the Qualification Statements shall be submitted with **TABS AS NOTED BELOW**:
  1. **General and Background Information:** Provide the following:
    - a. Firm's legal name, address, Texas Registered Engineering Firm Registration Number, location of office that will be performing the services, date of firm formation, and contact information for key personnel.
    - b. A summary of any litigation, claim(s), or contract disputes filed by or against Offeror in the past five (5) years which is related to the services that Offeror provides in the regular course of business.
    - c. A statement of conflicts (if any) the proposing entity or key personnel may have regarding these services. The statement should include conflicts, as well as any working relationships that may be perceived by disinterested parties as a conflict. If no potential conflicts of interests are identified, please state so.
  2. **Expertise and Experience:** Describe the overall expertise and experience of the engineering firm relative to the scope of services contained in this RFQ, including, but not limited to, public works construction, federally funded construction projects, port or maritime projects located in this general region of the state, and project construction management experience.
  3. **Project Approach/Performance:** Provide a project approach describing how the design team will meet the overall objectives of the Owner, provide a quality project, and meet the schedule as described above.

4. **Design Team:** Identify and provide a statement of qualifications of the principal, project manager and significant project team members who will be assigned to the project for actual “hands on” work. Provide resumes for each significant project team member. Resumes do not count toward page count.
5. **References:** Provide references for similar type work as that which is requested in this RFQ. This section should include recent project information of similar type work completed by Offeror along with the name and telephone number of the point of contact for each project. A minimum of five (5) similar projects, or projects demonstrating Offeror’s professional ability to perform the project in this RFQ, along with references for each project.
6. **Professional Liability Insurance:** The engineering firm shall at all times while this Agreement remains in effect, maintain insurance as set forth in Exhibit 1 attached hereto and incorporated herein for all purposes. The amount of insurance shall remain in effect throughout the period of responsibility of the project involved in accordance with the statute of limitations or for five (5) years from the issuance of the Certificate of Completion, whichever is shorter. Liability insurance in excess of the minimum requirement shall be a point of consideration in negotiations between the Port and Offeror. Offeror may wish to provide a sample Certificate of Insurance in this section.

**VII. EVALUATION AND AWARD OF CONTRACTS.**

**A. Evaluation Criteria.** Qualifications shall be evaluated by the Port using the following criteria:

1. General and Background Information:	5 points
2. Expertise and Experience	35 points
3. Project Approach/Performance	25 points
4. Design Team	25 points
5. References	<u>10 points</u>
	<b>Total 100 points</b>

**B. AWARD OF CONTRACT.**

1. This RFQ provides information necessary to prepare and submit a Statement of Qualifications (SOQ) for consideration and ranking by the Port of Port Arthur using the evaluation criteria described above. The Port will rank the responses in order of the most qualified, based on demonstrated competence and qualifications to perform the services, and then make a determination as to whether or not an informal meeting will be required of the top-ranking firms. If necessary, the Port may engage in individual discussions and interviews with two or more Offerors deemed fully qualified, responsible, and suitable on the basis of initial responses, and with professional competence to provide the required services.

Offerors shall be encouraged to elaborate on their qualifications, performance data, and staff expertise pertinent to the proposed contract.

2. Proprietary information for competing Offerors shall not be disclosed to the public or to competitors. The Offeror must, with specificity, identify those portions of its Qualification Statements which are “proprietary.” Offerors may not designate their entire Qualification Statement “proprietary” and any attempt to do so may result in rejection of same.
3. At the conclusion of the review of the Qualification Statements received, the highest ranked firm will be asked to submit a fee proposal to begin contract negotiations for a fair and reasonable price. The fee for basic services will be either fixed price or a cost reimbursement with an agreed maximum. If a contract is deemed satisfactory and advantageous to the Port and can be negotiated at a fair and reasonable fee, the award shall be made to that Offeror. If negotiations are not successful, the negotiations shall be formally terminated, and the Project offered to the next firm for negotiation and possible award of the Contract. Should the Port determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

#### **VIII. GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES.**

- A. **MANDATORY USE OF POPA FORMS (ONLY WHEN PROVIDED) AND TERMS AND CONDITIONS:** Failure to submit a Qualification Statement in accordance with requirement stated in Section No. VI of this RFQ shall be a cause for rejection of same. Return of the complete document is required. Modification of, or additions to, any portion of solicitation may be cause for rejection of the Qualification Statement; however, The Port reserves the right to decide on a case-by-case basis, in its sole discretion, whether or not to reject such Qualification Statement as non-responsive. Supplementary data and information which respond to inquiries, demonstrate qualifications and expertise, etc., may be attached to the forms.
- B. **PRECEDENCE OF TERMS:** Except for Paragraphs A, B, and C of the General Terms and Conditions for Professional Services, which shall apply in all instances, in the event there is a conflict between the General Terms and Conditions for Professional Services and any Special Terms and Conditions used in a particular procurement, the Special Terms and Conditions shall apply.
- C. **DEFAULT:** In case of failure to deliver the reports, documents, or services in accordance with the contract terms and conditions, the Port, after due oral or written notice, may procure them from other sources and hold Offeror responsible for any resulting additional procurement and administrative costs. This remedy shall be in addition to any other remedies which The Port may have.



- D. ASSIGNMENT OF CONTRACT: A contract shall not be assigned by the Offeror in whole or in part without the written consent of The Port.
- E. ANTITRUST: By entering into a contract, Offeror conveys, sells, assigns and transfer to the Port all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Port, relating to the particular goods or services purchased or acquired by the Port under said contract.
- F. ETHICS IN PUBLIC CONTRACTING: By submitting their Qualification Statements, all Offerors certify their Qualification Statements are made without collusion or fraud and they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their Qualification Statement, and they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- G. ANTI-DISCRIMINATION: By submitting their Qualification Statements, all Offerors certify to the Port they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Texas Commission of Human Rights Act, Tex. Labor Code § 21.001—21.306 (Vernon’s Supp. 1995) (“TCHRA”).
- H. DEBARMENT STATUS: By submitting their Qualification Statements, all Offerors certify they are not currently debarred for submitting Qualification Statements on contracts by any Agency of the State of Texas, nor are they an agent of any person or entity that is currently debarred from submitting Qualification Statements on contracts by any Agency of the State of Texas.
- I. APPLICABLE LAW AND COURTS: Any contract resulting from this solicitation shall be governed in all respects by the laws of the State of Texas and any litigation with respect thereto shall be brought in the courts of Jefferson County, the State of Texas. Offeror shall comply with applicable federal, state and local laws and regulations.
- J. QUALIFICATIONS OF OFFERORS: The Port may make such reasonable investigations, as deemed proper and necessary, to determine the ability of the Offeror to perform the work/furnish the item(s) and the Offeror shall furnish to the Port all such information for this purpose as may be requested. The Port reserves the right to inspect Offeror’s physical facilities prior to award to satisfy questions regarding Offeror’s capabilities. The Port further reserves the right to reject any Qualification Statement if the evidence submitted by, or investigations of, such Offeror fails to satisfy the Port that such Offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.

K. **DRUG FREE WORKPLACE POLICY STATEMENT:** Offeror acknowledges and certifies that it understands the following acts by the Offeror, employees, and/or agents performing services on Port property are strictly prohibited:

1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
2. Any impairment or incapacitation from the use of alcohol or other drugs.

Offeror further acknowledges and certifies that it understands a violation of these prohibitions constitutes breach of contract and may result in default action being taken by the Port in addition to any criminal penalties, which may result from such conduct.

L. **DISADVANTAGED BUSINESS UTILIZATION:** It is the policy of the Port to contribute to the establishment, preservation, and strengthening of disadvantaged business enterprises and to encourage the participation of disadvantaged business. Towards that end, the Port encourages firms to provide for the participation of disadvantaged owned businesses through partnerships, joint ventures, subcontracts, and other contractual opportunities, all in compliance with the Port's Policy Directive on Diversity in Contracting, adopted June 24, 2020. A copy of this Policy can be obtained from the Port's website at <https://portpa.com/wp-content/uploads/2021/04/POPA-CAP-Policy-dated.pdf>.

M. **OPERATING AUTHORITY AND CREDENTIALS:** Wherever and whenever during the course of performing any work under the Contract, the Offeror will ensure all motor vehicles utilized to accomplish the terms of the Contract are properly titled, registered, plated and have the required operating authority and credentials in accord with the motor vehicle codes and regulations of the State of Texas.

## **IX. SPECIAL TERMS AND CONDITIONS.**

A. **INSURANCE:** Prior to the start of any work under the contract, Offeror shall provide the Port Certificate(s) of Insurance on forms approved by the Port which evidence coverage as set forth on Exhibit 1 attached hereto and incorporated by reference herein.

B. **AUDIT:** Offeror agrees to retain all books, records, and other documents relative to the contract for five (5) years after final payment, or until audited by the Port, whichever is sooner. The Port, its authorized agents, and/or State of Texas auditors shall have full access to and the right to examine any of said materials during said period.

C. **OWNERSHIP OF MATERIALS:** Ownership of all material and documentation originated and prepared pursuant to the RFQ shall belong exclusively to the Port and subject to public inspection in accordance with applicable Texas law. Trade secrets or other proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction may not be subject to disclosure; however, the bidder, offeror, or contractor must invoke the protections

of this section prior to or upon submission of the data or other materials, and must identify the data or materials to be protected and state the reason why the protection is necessary.

- D. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Port. In the event that Offeror desires to subcontract some part of the work specified herein, Offeror shall furnish the Port the names, qualifications, and experience of its proposed subcontractors. In any event, the Offeror shall, however, remain fully liable and responsible for the work to be done by his subcontractor(s) and shall assure compliance with all requirements of that contract.
- E. **SOURCE OF FUNDS:** By submitting their Qualification Statements, all Offerors certify their Qualification Statements are made with the knowledge that a portion of the funds related to the project are supported by Port Security Grant and is subject to Grant requirements from FEMA; a component of the Department of Homeland Security.

# EXHIBIT 1

## Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation:** Insurance as required by the State of Texas, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.  
*(Not required if consultant provides written verification it has no employees)*
4. **Professional Liability:** (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

### **Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

**The Entity, its officers, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant’s insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

### ***Primary Coverage***

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

### ***Waiver of Subrogation***

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administrations, and defense expenses with the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

### ***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5) years*** after completion of contract work.

### ***Verification of Coverage***

Consultant shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Subcontractors***

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.

### ***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.