

**RESOLUTION 2013-34**

**RESOLUTION AMENDING BPC (BOARD OF PORT COMMISSIONERS) POLICY NO. 110 TO REFLECT CHANGES TO STATE LAW APPLYING TO THE ADMINISTRATION OF CONTRACTS, AND TO UPDATE PROVISIONS FOR AGREEMENTS, AND THE PURCHASE OF SUPPLIES, MATERIALS, AND EQUIPMENT**

**WHEREAS**, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

**WHEREAS**, Section 37 of the Port Act requires that the California Public Contract Code (CPC) apply to public projects of the District; and

**WHEREAS**, the District adopted the Uniform Public Construction Cost Accounting Act (Accounting Act) procedures of the CPC to apply to public projects of the District; and

**WHEREAS**, the Board of Port Commissioners (BPC) adopted BPC Policy 110 incorporating the provisions of the Accounting Act to govern the processing and administration of public projects; and

**WHEREAS**, BPC Policy No. 110 established a procedure for the administration of contracts, agreements and the purchasing of supplies, materials, and equipment and establishing a policy governing the processing and administration of contracts; and

**WHEREAS**, BPC Policy No. 110 governs the processing and administration of public projects, consulting and service agreements, and the purchasing of supplies, materials, and equipment for the San Diego Unified Port District (District) as a routine administrative matter ; and

**WHEREAS**, staff and the Port Attorney's Office are recommending changes to BPC Policy No. 110 which reflect amendments to state law applying to public contracts, recommending updates to provisions for consultant agreements, and for the purchase of supplies, materials and equipment; and

**WHEREAS**, included in the recommendations are authority and guidelines for the retention of outside attorneys and consultants by the Port Attorney's Office; and

**WHEREAS**, the proposed changes will facilitate more efficient and effective management of contracts, service agreements and the procurement of supplies; and

**WHEREAS**, A synopsis of the changes proposed by section is as follows:

### **Section I, Contracts for Public Projects**

- Paragraph D, the limit for projects performed by District employees, negotiated contract or purchase order is increased from a maximum of \$30,000 to a maximum of \$45,000.
  - Requested for consistency with amendment to PCC § 22032(a).
- Paragraph E, for contracts let by informal procedures, the limit is increased from a maximum of \$125,000 to a maximum of \$175,000.
  - Requested for consistency with amendment to PCC § 22032(b).
- Paragraph F, the requirement for formal bidding is increased for contracts from \$125,000 to \$175,000.
  - Requested for consistency with amendment to PCC § 220032(c).
- Paragraph F 3, the notice required for inviting formal bids is decreased from thirty days to fifteen days.
  - Requested for consistency with amendment to PCC § 22037.

### **Section II, Service and Consulting Agreements**

- Paragraph A, pertaining to the limit for agreements that may be directly negotiated is increased from \$75,000 to \$90,000.
  - Adjusted up to maintain consistency with limits for contracts.
  - Adjusted up to allow staff more flexibility in retention of service providers and consultants.
- Paragraph B, regarding the limit for agreements which require informal written solicitations is increased up to a maximum of \$175,000.
  - Adjusted up to maintain consistency with limits for contracts.
  - Adjusted up to allow staff more flexibility in retention of service providers and consultants.

- Paragraph C, the requirement for formal publication or electronic notification is increased from a minimum of \$125,000 to minimum of \$175,000.
  - Adjusted up to maintain consistency with limits for contracts
  - Adjusted up to allow staff more flexibility in retention of service providers and consultants.
- Paragraph E, Port Attorney or designee authorized to negotiate agreements for legal services or consultant services without BPC authorization for agreements of \$175,000 or less.
  - Provides authority for the Port Attorney to retain outside counsel and consultants.
- Paragraph F, Port Attorney or designee shall interview or otherwise determine firms or individual best qualified for agreements in excess of \$175,000 with approval by the BPC.
  - Provides ability of Port Attorney to interview and retain outside counsel and consultants subject to BPC approval.
- Paragraph G, Port Attorney may execute amendments up to 10% of agreement amount, or a total agreement amount not to exceed \$200,000.
- Paragraph H, Port Attorney consulting agreements to also be included in the monthly report to the Board on agreements executed.

### **Section III, Purchasing of Supplies, Materials, and Equipment (Goods)**

- Paragraph A 1, goods or services priced at \$5,000 or less may be acquired by utilizing a procurement card.
  - Formalizes procedures for the use of procurement cards.
- Paragraph A 3, raises the amount subject to price quotation (verbal or written) bidding maximum from \$75,000 to \$90,000.
- Paragraph A 4, raises the amount purchase may be made through written informal bidding maximum from \$90,000 to \$125,000.
- Paragraph A 5, raises the requirement that a purchase must be made through formal bidding from \$125,000 and over to \$175,000 and over.

**Section V**

- Adds that the Port Attorney or authorized designee shall review all contracts, agreements, leases and other official documents on behalf of the District as to form and legality.
  - While it has been commonly accepted as a practice in the past, the policy should recognize this authority and requirement to review legal documents.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That BPC (Board of Port Commissioners) Policy No. 110, Procedure for the Administration of Contracts, Agreements, and the Purchasing of Supplies, Materials and Equipment, as amended, a copy of which is on file in the Office of the District Clerk, is hereby adopted.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of February, 2013, by the following vote:

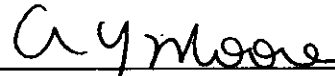
AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

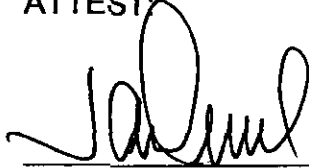
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)