

Port of Houston Authority
STANDARDS FOR EMPLOYEE INTERACTION
WITH INTERESTED PARTIES
Amended August 2015



A. Overview.

1. The employees of the Port of Houston Authority (the “Port Authority”) hold positions of public trust.

2. It is the policy of the Port Authority that its employees place the public interest above any private financial interest, and strive to instill confidence in the integrity of those who are responsible for the operations and representation of the Port Authority.

3. The Port Authority maintains a Code of Ethics. All employees are required to be familiar with the Port Authority’s Code of Ethics and to fully comply with its requirements.

4. These Standards for Employee Interaction with Interested Parties (the “Standards”) are intended to supplement the Code of Ethics and help foster Port Authority employee conduct that promotes integrity and public trust, and avoids any appearance of private gain, conflict of interest, or efforts to influence the decisions of Port Authority employees for personal gain or advantage.

5. The Standards should be interpreted in the broadest sense to accomplish these goals. These are *minimum* Standards for employee interaction. In addition to the requirements of these Standards, every employee should use his or her best judgment with respect to interactions with any Interested Party or Customer (as defined below).

B. Definitions.

1. “Authorized Employees” means Port Authority employees permitted to conduct Informal Procurements by the Port Authority Procurement Manual, other Port Authority standards, or the Director of Procurement Services.

2. “Benefit” means anything reasonably regarded as monetary or pecuniary value, gain, or advantage, including benefit to any other person in whose welfare the employee has a substantial interest.

3. “Customer” means any person or entity whose business or trade provides or could provide commercial or economic benefit(s) to the Port Authority or the Port of Houston.

4. “Formal Procurement” means the procurement of goods and services that must be approved by the Port Commission pursuant to Texas Water Code Chapter 60.

5. “Informal Procurement” means the procurement of goods and services by Port Authority employees, as delegated from time-to-time by the Port Commission pursuant to Texas Water Code Chapter 60; under current law Port Authority employees may make routine purchases and enter into contracts valued up to and including \$50,000.

6. “Interested Party” means any person or entity that is seeking official action by the Port Authority, or has interest(s) that may be substantially affected by the performance or nonperformance of a Port Authority action.

7. “No-Contact Period” means the period commencing on public issuance by the Port Authority of a solicitation for Formal Procurement proposals, and ending when the Port Authority publicly posts notice of the agenda for the Port Commission meeting at which award of the Formal Procurement is scheduled for action.

8. “Port Authority First Responders” means (i) employees who are certified as emergency medical services personnel by the Texas Department of State Health Services; (ii) peace officer employees whose duties include responding rapidly to an emergency; (iii) permanent, full-time law enforcement officer employees designated as fire and arson investigators by an appropriate local authority; and (iv) permanent, full-time fire department employees who are not secretaries, stenographers, clerks, budget analysts, or similar support staff persons or other administrative employees and who are assigned duties in one or more of the following categories: (a) fire suppression; (b) fire inspection; (c) fire and arson investigation; (d) marine firefighting; (e) aircraft rescue and firefighting; (f) fire training; (g) fire education; (h) fire administration; and (i) any other position necessarily or customarily related to fire prevention or suppression.

9. “Procurement Policy” means the policy established by the Port Commission, as may be amended from time to time, regarding the procurement of goods and services.

10. “Widely Attended Event” means an event for which all of the following criteria are met:

a. The employee expects that a large number of persons (i.e. twenty or more individuals, including spouses and guests) will attend the event.

b. The employee expects that persons with a diversity of views or interests will attend the event. This requirement can be satisfied if:

i. The event is open to the public or to persons throughout an industry or profession,

ii. Those in attendance will represent a range of persons interested in a given matter, or

iii. There will otherwise be a significant diversity of views or interests present.

c. The employee's attendance is in the interest of the Port Authority. An employee's attendance at a sporting, music, or other entertainment event will not typically be considered in the interest of the Port Authority.

d. The cost of attendance of the employee and spouse/guest will be paid for:

i. By the primary sponsor of the event, or

ii. By someone other than the sponsor, if the employee expects that more than fifty people will attend the event, and the Benefit of free attendance has a market value of \$260 or less (or \$130 or less per person if a spouse/guest will also receive free attendance).

11. "Working Meal" means a meal served in a business office or similar location, at which (i) Port Authority business is conducted during the meal period and (ii) the attendance of the Port Authority employee(s) accepting such meal is in the interest of the Port Authority. A "lunch and learn" or other similar meal hosted by an Interested Party at the Port Authority, other than those related to a Port Authority wellness program, is not typically considered to be a Working Meal.

C. Restrictions on Benefits Provided by Interested Parties. **The restrictions set forth in these Standards are in addition to those in the Port Authority's Code of Ethics. All Employees are expected to be familiar with and adhere to the restrictions in both these Standards and the Code of Ethics.** Except as provided below, Port Authority employees shall not directly or indirectly accept any Benefit, including any gift of food, goods, entertainment, services, money, lodging, or transportation, from any Interested Party, including without limitation, any person or entity that:

1. Does business or seeks to do business with the Port Authority;

2. Is subject to regulation by the Port Authority, including through inspections or the issuance of permits or licenses;

3. Acts as lobbyist, agent, or consultant to any person or entity seeking official action by the Port Authority;
4. Has obtained, or seeks to obtain, Port Authority funding, or sponsorships or other monetary or material in-kind Port Authority support; or
5. Is engaged in litigation or who has a known claim against the Port Authority, including legal counsel representing litigants or claimants.

D. Exceptions.

1. Reliance on these Exceptions. The following exceptions should be relied upon sparingly and carefully. If an employee is aware of any circumstance that creates or could create a conflict of interest, or give the appearance of impropriety, undue influence, or conflict of interest, he or she should not rely on the exceptions below, and should not accept the Benefit.

2. Certain Permitted Benefits. Port Authority employees may accept the following unsolicited Benefits from Interested Parties:

a. A fee prescribed by law to be received by the employee, or any other Benefit to which the employee is lawfully entitled or for which he or she gives legitimate consideration, in a capacity other than as an employee;

b. A Benefit conferred on account of kinship or on account of a personal, professional, or business relationship, independent of the employee's relationship with the Port Authority;

c. A Benefit to an employee required to file a report under Title 15, Regulating Political Funds and Campaigns, Texas Election Code, that is derived from a function in honor or appreciation of the employee if:

i. The Benefit and the source of any benefit in excess of \$50 is reported in the statement; and

ii. The Benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the employee's office which are nonreimbursable by Port Authority;

d. A political contribution as defined by Title 15, Election Code;

e. A Benefit issued by another governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

f. Transportation, meals, and lodging expenses in connection with a conference or similar event in which the employee renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory;

g. Port Authority First Responders may accept a Benefit consisting of complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document provided through a program or clinic that is operated by a local bar association or the State Bar of Texas, if the program or clinic is approved by the Executive Director of the Port Authority;

h. A Benefit distributed generally as a business custom, cultural tradition, or means of advertising, other than a meal, transportation, entertainment, or lodging, if the total estimated value of the Benefit is \$50 or less and the receipt of such Benefit is in the interest of the Port Authority; or

i. A ceremonial or commemorative Benefit accepted on behalf of the Port Authority, provided that the employee does not keep it for personal use.

3. Benefits Allowed by Code of Ethics, But Prohibited by These Standards. Notwithstanding Sections V(B)(8)(e) and V(B)(8)(i) of the Port Authority Code of Ethics, unless otherwise allowed by these Standards, Port Authority employees shall not accept the following benefits:

a. A Benefit, excluding cash or a negotiable instrument, with a value of less than the amount permitted from time-to-time under state law, which as of the date hereof is Fifty Dollars (\$50); or

b. A Benefit consisting of food, lodging, transportation, or entertainment accepted as a guest.

4. Widely Attended Events. Subject to the requirements of Section B(10) above, Port Authority employees may accept unsolicited admission, food, Benefits described in Section D(2) above, transportation, and entertainment as a guest of or participant in a Widely Attended Event.

5. Working Meal. Port Authority employees may accept food as a participant in a Working Meal.

6. Business Activities.

a. Policy Statement.

i. In order to compete with out-of-state and private operators of ports, waterways, and terminal facilities, it is necessary for the Port Authority to engage in significant business and marketing activities. Therefore, from time to time, appropriate Port Authority employees may engage in business and marketing activities on behalf of the Port Authority or the Port of Houston in the interest of the Port Authority.

ii. Such business or marketing activities may include the sharing of meals and entertainment, and the provision of Benefits as described in Sections D(2)(f), (h), and (i) above.

iii. In these circumstances, the Port Authority employees should observe prevailing business customs, but should avoid accepting any Benefit so significant as to create the appearance of impropriety, undue influence, or conflict of interest.

b. Business Activities Rules. The following rules apply to the giving and receiving of Benefits, including gifts by Port Authority employees engaged in business and marketing activities with Customers and Interested Parties.

i. Port Authority employees may provide business meals and entertainment to Customers and Interested Parties in connection with business and marketing activities.

(x) Such business meals and entertainment must relate to bona-fide Port Authority or Port of Houston business, or be reasonably expected to provide a business benefit to the Port Authority or the Port of Houston.

(y) The costs of such meals and entertainment shall be reasonable and not excessive, giving consideration to the business purpose, location, and other circumstances of such occasions.

ii. Where it is reasonably foreseeable that refusing a particular Benefit offered by a Customer would impair the Port Authority's business or marketing activities with respect to that Customer, a Port Authority employee may accept such Benefit, provided that:

(x) Acceptance of the Benefit does not create the appearance of impropriety, undue influence, or conflict of interest;

(y) The employee attempts, to the extent practicable, to accept the Benefit on behalf of the Port Authority; and

(z) The employee discloses the Benefit pursuant to the requirements set out in Section D(6)(b)(iii) immediately below.

iii. In the event that a Port Authority employee accepts a Benefit from a Customer or Interested Party, and (1) the Benefit is not allowed under and accepted in accordance with Section D(2), and (2) the total value of the Benefit (excepting any food, entertainment, services, lodging, or transportation used as a guest) exceeds \$50, the employee should, as soon as reasonably possible:

(x) Record the nature of the Benefit and its market value or estimated market value;

(y) Provide a written disclosure of his or her acceptance of the Benefit to the manager to whom he or she directly reports, describing the nature and value of the Benefit; and

(z) Promptly deliver the Benefit, if feasible, to such manager.

iv. With respect to any Benefit delivered to a manager as described in Section D(6)(b)(iii)(z) above, such manager shall not keep the Benefit for personal use, but instead:

(x) Shall return the Benefit to the Customer or Interested Party;

(y) Shall use the Benefit for the benefit of the Port Authority; or

(z) May make the Benefit available for general use by Port Authority staff (as may be the case with food items), but only if doing so would not create the appearance of impropriety, undue influence, or conflict of interest, or otherwise harm the Port Authority.

E. Procurement Communications.

1. Prohibition on Procurement Lobbying by Interested Parties.

a. Formal Procurements. Except as permitted by the Procurement Policy, Interested Parties shall not communicate with Port Authority employees or Commissioners regarding any Formal Procurement during the No-Contact Period.

b. Informal Procurements.

i. Interested Parties shall not communicate with Port Authority employees regarding any Informal Procurement, from the time the Port Authority solicits proposals or bids for such Informal Procurements, until the time that the subject of those proposals or bids has been finally acted on by the Port Authority, except as provided below. Interested Parties may:

a) Submit proposals to Authorized Employees responding to the Port Authority's solicitation and related communications;

b) Submit questions or clarification requests to Authorized Employees, including questions or requests presented via electronic means;

c) Participate in discussions, interviews, and presentations conducted at the request of Authorized Employees to assist with Informal Procurements; and

d) Engage in authorized negotiation of the contract that is the subject of the Informal Procurement with Authorized Employees.

ii. Port Authority Informal Procurement solicitations shall, if reasonably possible, contain a statement describing this prohibition against procurement lobbying and the penalties for violations of this prohibition.

2. Restrictions on Procurement Communications by Port Authority Employees.

a. Formal Procurements. Information regarding Formal Procurements is confidential, and Port Authority employees shall not disclose it during the No-Contact Period except as permitted by the Procurement Policy.

b. Informal Procurements.

i. Information regarding Informal Procurements is confidential, and Port Authority employees shall not disclose it to any proposers or bidders or their agents or any third parties before the subject of those proposals or bids has been finally acted on by the Port Authority, except as provided below.

ii. This prohibition does not apply to the following activities by Authorized Employees:

a) Solicitations for proposals or bids, or requests for one or more price quotations, and related communications;

b) Public communications at any Port Authority pre-bid/pre-proposal conferences;

c) Responses to questions or clarification requested by Interested Parties, including responses to questions or requests presented via electronic means;

d) Discussions, interviews, and presentations conducted at the request of Authorized Employees to assist with Informal Procurements; and

e) Negotiation of the contract that is the subject of the proposal, bid, or price quotation.

F. Additional Disclosure Requirements.

1. If a Port Authority employee has a “Substantial Interest” (as defined by the Port Authority Code of Ethics) in a business, contract, or property being considered by the Port Authority, the employee shall not participate in the consideration of the matter, and shall immediately disclose the existence of such Substantial Interest to his or her supervisor.

2. Every Port Authority employee shall immediately disclose to his or her department or division superior, or the Executive Director or Chief Legal Officer, any conduct whereby any person, including any Interested Party (i) violates or attempts to violate the no-lobbying provisions of these Standards, (ii) improperly attempts to influence Port Authority decision-making, or (iii) otherwise violates or attempts to violate these Standards.

G. Penalties.

1. Employees who violate these Standards may be subject to sanctions and penalties, including official reprimand, suspension of employment, or dismissal from employment.

2. Any Interested Party that offers, confers, or agrees to confer any Benefit as consideration for a Port Authority employee's decision, opinion, recommendation, or other exercise of discretion as a public servant, or otherwise violates or attempts to violate these Standards, may be barred from eligibility for participation in any Port Authority procurement, as provided in the Procurement Policy.

H. Advice Regarding these Standards.

1. Employees who have questions about the application of these standards (or of other Port Authority ethics policies, including its Code of Ethics) to particular situations should seek advice from a Legal Division attorney, in advance of taking action where possible.

2. Disclosures made by an employee to a Legal Division attorney *might not* be protected by the attorney-client privilege.

3. An employee who obtains advice from a Legal Division attorney regarding the application of these Standards (after fully disclosing all relevant facts), and acts in good faith reliance on that advice, shall not be subject to sanctions or penalties, even if that action is later found to constitute a violation of these Standards. However, if the employee has knowledge or reason to believe that the advice he or she received was based upon fraudulent, misleading, or otherwise incorrect information, that employee's reliance upon the advice is not deemed to be in good faith, and sanctions or penalties may be appropriate.

4. Where an employee's actions violate a criminal statute, reliance on the advice of a Legal Division attorney does not prevent prosecution of the employee for such violations.

I. Acknowledgement of Receipt, Understanding, and Compliance.

1. Within three days after receiving these Standards, every new Port Authority employee must complete the acknowledgment on the last page of these Standards using the Learning Management System accessed through the Employee Gateway link on the Port Authority website: www.portofhouston.com.

2. During February of each calendar year, or as soon thereafter as reasonably practicable, each employee must complete the acknowledgment on the last page of these Standards using the Learning Management System accessed through the Employee Gateway link on the Port Authority website: www.portofhouston.com.

APPROVED BY: 

Executive Director

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Acknowledgement of Receipt, Understanding, and Compliance

1. I hereby acknowledge receipt of a copy of the Port of Houston Authority's Standards for Employee Interaction with Interested Parties.
2. I have read and understand the Standards for Employee Interaction with Interested Parties and shall comply with its provisions.