

Eric Kalivoda  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Intermodal Transportation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only estimated cost for implementation is \$1,300, which accounts for the cost to publish the Notice of Intent and the Rules in the State Register. The proposed rule changes will update technical wording, airport project priority program processes and procedures, basic airport project applications and grant application procedures to more closely mirror the Federal Aviation Administration. This will allow airports to update their project applications on file with the state to ensure efficient and effective requested projects for inclusion in the Airport Construction and Development Priority Program and will ensure that the projects submitted are scored accurately by the Department. The revisions propose language and guidance for the development and implementation of new airports and documentation that the airport program will need to receive in determining and prioritizing future project applications for these public airports. The proposed revisions will continue the implementation of a prioritized project list in accordance with state statutes that will assist in maintaining, developing, and improving the Louisiana airport system to ensure a state of good repair and optimize the usage and efficiency of transportation facilities and funding. Further, the program shall foster operational safety and provide for the optimal use and efficiency of existing transportation facilities and funding strategies. Moreover, it may support resiliency in the transportation system and promote diverse economic development and job growth, commerce, and tourism. It should also encourage innovation, support environmental practices, and improve the quality of life for Louisiana citizens.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed changes should have no impact on revenue collections for state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed changes should have no costs or economic benefits that will directly affect any individual, small business, or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed change of updating the project priority process, and subsequently the grant execution process for projects through the Airport Construction and Development Priority Program may result in increased economic opportunities for individuals working in fields related to the design, consulting, construction and maintenance of aviation facilities statewide.

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**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Multimodal Commerce**

Louisiana Port Construction and Development  
Priority Program (LAC 56:III.Chapter 21)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 34:3451, et seq., that the Department of Transportation and Development, Office of Multimodal Commerce, Ports and Waterways Section, proposes to amend Part III, Chapter 21, Title 56 entitled "Louisiana Port Construction and Development Priority Program", to reflect current DOTD policies, update data from the U.S. Department of Labor, and revise outdated tables and figures. There should be no significant adverse impact to the public, businesses, local or state governmental entities resulting from this amendment.

**Title 56**

**PUBLIC WORKS**

**Part III. Flood Control and Water Management**

**Subpart 2. Port Construction and Development Priority Program**

**Chapter 21. Louisiana Port Construction and Development Priority Program**

**§2101. Definitions**

**[Formerly §2103]**

*Committee*—Joint Legislative Committee on Transportation, Highways and Public Works.

*Council*—Legislative Audit Advisory Council.

*Deep Draft Port*—a port capable of accommodating vessels of at least 25 feet of draft and of engaging in foreign commerce.

*Department*—the Louisiana Department of Transportation and Development.

*Joint Legislative Committee*—see Committee.

*Port*—a harbor town or city where ships may take on or discharge cargo.

*Port Authority*—the governing body of any port area or port, harbor, and terminal district.

*Procedural Manual*—a manual entitled, Louisiana Port Construction and Development Priority Program Procedural Manual for Funded Projects, which is used to implement projects funded by the program.

*Program*—Louisiana Port Construction and Development Priority Program.

*Project*—that activity that derives benefits to the state after an investment of program and port funds. The port funds may include federal monies.

*Project Agreement*—the agreement between the department and port authority that states the authorities and responsibilities of each party in implementing a project that is funded in part by the Louisiana Port Construction and Development Program. The format is as shown in the procedural manual.

*Shallow Draft Port*—a port that is not capable of accommodating vessels of 25 feet of draft or is not engaged in foreign commerce.

*Total Project*—that activity that derives benefits to the state after an investment of program, port, and other public and private funds.

*Transportation Trust Fund*—a fund created by a constitutional amendment passed by the voters on October 7, 1989 which dedicated 16 cents of the gasoline/motor fuel tax to construction and maintenance of state and federal highways and bridges, statewide flood control, ports, airports, transit, state police for traffic control, and parish roads.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 17:274 (March 1991), amended LR 18:750 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:1039 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

### **§2103. Creation of Priority Program [Formerly §2101]**

#### **A. Creation of Priority Program**

1. The Louisiana Port Construction and Development Priority Program was created by Act 452 of the 1989 Regular Session. Before this program, the state funded ports projects through the Capital Outlay Program without requiring any feasibility studies. From 1977 to 1984 Louisiana expended more funds for ports than any other state in the union. For this period Louisiana spent \$25,985,000 on shallow draft ports and \$173,424,000 on deep draft ports for a total of \$199,409,000.<sup>1</sup>

2. The creation of the Port Construction and Development Priority Program changed the method by which Louisiana participated in port improvements. The feasibility of proposed port projects must now be determined and the projects must be prioritized. The source of state funds for the Louisiana Port Construction and Development Priority Program is the Transportation Trust Fund. Revenue accrues to the Transportation Trust Fund through the collection of taxes placed on the sale of gasoline.

3. In general, the purpose of a priority program is to disburse funds to projects that have the highest prospects of success as determined by objective standards such as technical and financial feasibility and overall impacts. A priority program also defines the standards by which these projects are evaluated and provides the mechanisms to conduct the evaluation according to an accepted methodology. Moreover, a priority program's application process may serve as a means to determine whether proposed projects are even eligible for funding under the program as well as provide the basis for maintaining a current inventory of facilities that can be used for future purposes.

4. The components of a typical priority program includes legislative authorization, a set of rules and regulations governing the program's implementation, an application process, an evaluation procedure, a prioritization of projects, funding, and finally implementation.

5. With regard to Louisiana's port priority program, many of the overall requirements and procedures are similar to other priority programs. However, Louisiana's program specifically emphasizes the need of equitable rationalization

of state expenditures in order to avoid duplication of port infrastructure. In addition, because ports are dynamic economic entities, Louisiana's port priority program provides for rigorous analysis of forecasted project benefits in order to ensure the overall impact of the project on the state will be positive, providing maximum benefits for the state. Finally, because effective project implementation is as important to the success of the program as project prioritization, the Louisiana port priority program stipulates strict procedures for the planning and construction of funded projects as well as the operation of maintenance of the completed project.

#### **B. Port Project Evaluation Methodology**

1. R.S. 34:3451 et seq., requires that the Department of Transportation and Development (department) develop procedures for review and a methodology to evaluate port projects which are seeking state funds.

2. Procedures to review and evaluate port project applications for funding shall be submitted to the Joint Legislative Committee on Transportation, Highways and Public Works. Before implementing these procedures, the approval of the committee shall be obtained in accordance with the Administrative Procedure Act.

3. The department may contract with the Louisiana State University National Ports and Waterways Institute for any of the duties associated with the development of the port priority program. These activities may include but are not limited to the development, review, and evaluation of plans and specifications and the development of the port program list. However, the final determination of the port priority list shall remain with the department and the Joint Legislative Committee as provided by Act 452.

4. An inventory of ports, navigable waterways, and water transportation facilities shall be maintained. Both private and public facilities shall be included. Information such as location, capacities, and capabilities shall be included. The department shall also serve as a clearinghouse for inquiries for ports and waterways information.

5. Each year, the department shall prepare a summary report of financial requirements for expanding or renovating existing ports and waterways facilities and constructing new ones. The financial requirements shall be separated into state, federal, local and private funds required.

#### **C. Program Procedures**

1. Any port authority may submit an application for funding to the department except as provided below. Applications shall be submitted by the first of March, June, September and December of each calendar year for consideration in the following fiscal year. The application shall include a description of the project, demonstration of immediate need, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share equal to or more than the single project maximum legislative funding authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum legislative funding authority established by the department.

c. The port authority has a project that may be canceled under the Section on distribution of funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scored will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

4. The Louisiana Department of Transportation and Development shall review the applications. Applications shall not be subjected to a formal review and evaluation until the information required in the application has been submitted. Applications shall also be reviewed by any appropriate state agencies.

5. The act provides for the submittal of a list of recommended projects in prioritized order to the Joint Legislative Committee. The committee will hold public hearings to obtain public input concerning the priority list. After the hearings and before the convening of the regular session, the department shall prepare a recommended construction program for the coming fiscal year and submit it to the joint legislative committee. When the recommended construction program is presented to the legislature for funding, the legislature cannot add any projects to the program.

6. Upon funding by the legislature, the department shall enter into an agreement with the port authority to participate in the construction of the project. The port authority shall provide 10 percent local match for the cost of constructing the project, and shall furnish all lands, easements, rights-of-ways, and spoil disposal areas at no cost to the state unless said items are critical to the project. The port authority also shall operate and maintain the facility without cost to the state.

7. Port authorities domiciled in a parish with a population of 50,000 or more shall be responsible for the preparation of plans and specifications, for letting of bids for construction, and for construction observation. Port authorities domiciled in a parish with a population less than 50,000 may request the department to prepare plans and specifications, to let the project for bids, and to observe construction. The engineer that prepared the plans will inspect the work and certify that the project complies with the plans and specifications upon completion.

a. Applications/projects shall conform to all local ordinances and requirements for Disadvantaged Veteran-owned/Women-owned Business Enterprises (DBE) set forth by local, regional, and State political subdivisions.

8. All contracts for construction shall be advertised and awarded in accordance with R.S. 38:2212 et seq.

9. Projects which are funded by this program shall begin in the fiscal year that the appropriation is made. Execution of an agreement with the department and receipt of preliminary plans by the department shall indicate that the

project has begun. These preliminary construction plans differ from the plans submitted in the application in that they are more advanced.

D. Auditing Funds. Funds shall be audited biannually by legislative auditor or certified public accountant in accordance with R.S. 24:513(A) and distributed in accordance with R.S. 24:516(A). The audit shall include an investigation of any failure to comply with the recommendations of the department in planning, design, and construction of the port project. Port authorities shall certify annually that the funds made available have been expended according to law.

E. Misuse of Funds. The legislative auditor shall report any misuse of funds to the Legislative Audit Advisory Council. The council shall determine if in fact funds have been misused. If funds have been misused, the council will instruct the state treasurer to suspend the distribution of funds. The council shall also advise the local district attorney of the misuse. The district attorney will take appropriate actions.

<sup>1</sup>Port and Waterways Institute, Louisiana Statewide Ports Assessment, 2 vols., (Baton Rouge: Louisiana State University, 1986), 11, 88.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 17:274 (March 1991), amended LR 18:749 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:1040 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

## **§2105. Program Procedures**

### **A. Application**

1. Any Louisiana port authority may submit an application for funding to the department, except as provided below. Applications may be submitted on a quarterly basis to the department no later than the first of March, June, September and December of each calendar year for consideration of funding or funding obligation authority in the following fiscal years. The application shall include a description of the project, demonstration of immediate need, benefits to be derived, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share equal to or more than the single project maximum Legislative Funding Authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum Legislative Funding Authority established by the department.

c. The port authority has a project that may be canceled under the Section on distribution of funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not

received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scores will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

**B. Review and Evaluation of Applications.** The Louisiana Department of Transportation and Development shall review the applications. Only applications which are complete, as determined by the department, shall be reviewed and evaluated. Applications shall also be reviewed by any appropriate state agencies.

**C. List of Recommended Projects and Public Hearings**

1. After receipt of applications by the department, the applications shall be reviewed. Only applications which are complete shall be evaluated and prioritized. Each quarter the department shall prepare furnish a prioritized list of projects, based on the applications received for that quarter, to the Joint Legislative Committee. Only projects that have met all program requirements as described herein under "Program Requirements" will be recommended. Multi-year projects that have been partially funded by the program shall receive higher priority than new projects in the next funding cycle. The Joint Legislative Committee will receive the prioritized list of projects from the department for each of the first three quarters of the year and shall call a public hearing within 30 days of receiving the list in order to receive public testimony regarding any project on the list. At such hearing, the joint committee will vote to accept, reject or modify the list. Each quarter, the department shall reprioritize the list of projects to reflect the cumulative list of projects recommended by the department.

2. After application recommendations for the last quarter are made, the department shall submit the final Port Construction and Development Priority Program to the joint committee for approval. Multi-year projects that have been funded by the program shall receive higher priority than new projects.

3. Prior to the convening of the regular session of the legislature, the Joint Legislative Committee shall hold a public hearing for the purpose of reviewing the final program for the ensuing fiscal year. Prior to such hearing, the department shall publish the appropriate official notice in the necessary journals. Projects recommended but not funded will be included in the list of recommended projects for the following year and will receive priority over newly funded projects.

**D. Construction Program**

1. After reviewing the public input, the Joint Legislative Committee shall recommend to the legislature a construction program prepared by the department from the list of recommended projects. Projects recommended but not funded will be included in the list of recommended projects for the following year. If a recommended project remains unfunded after four years and has not begun construction under the reimbursement provisions set forth in the Section

on "reimbursement" and the port authority still desires to proceed with the project, a new application will be required.

E. - F. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:751 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1041 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

**§2107. Program Requirements**

**A. General Requirements.** In order for the department to be able to adequately assess the merits of the proposed project, applications must be complete and verifiable. The responsibility to provide complete, accurate, and documented data on each project, as defined herein, rests solely with the port authority submitting the applications for funding.

**B. Specific Requirements**

**1. Project and Total Project**

a. For purposes of this program, a "project" is that activity that derives benefits to the state after an investment of program and port funds. "Project" refers to that portion of the total project for which the port is seeking program funds from the department. The amount of program funds required is used in calculating the cost benefit ratio which is used for ranking projects.

b. The "total project" is that activity that derives benefits to the state after an investment of program, port and other public and private funds and its cost is used to determine if the requirement for a minimum cost benefit ratio of one is met except as provided herein in references to benefit-cost ratio for projects with a private investment equal to or greater than the program share. The "total project" includes all improvements that are necessary for both the public and private sectors in order to derive the benefits identified in the application.

**2. Local Match**

a. Each port authority shall provide a local match of at least 10 percent of the cost of constructing the project. Funds obtained from federal or other non-state sources (i.e., private donations) may be used for the local match. State funds cannot be used as local matching funds. Prior to advertisement for bids, verifiable evidence shall be submitted indicating that all non-program funds are in hand or are readily available.

b. A port authority may provide a local match greater than 10 percent. Since the state's investment is the cost in calculating the benefit-cost ratio, the cost/benefit will be greater if the port elects to provide a larger local match. A higher cost/benefit will result in a higher evaluation score.

**3. Land Acquisition**

a. Land acquisition shall be eligible for funding only when in the judgment of the department it is an integral component of a project and critical to its development. Land acquisition that is not a critical component of a project or that is intended to be used for future expansion of port

facilities is not eligible for funding. An application must be developed which presents costs, benefits and other data for the total project.

#### 4. Port-Owned or Public Land

a. Port improvements funded through the Port Construction and Development Priority Program shall be built, installed, and/or implemented only on port-owned lands or public lands. Public lands are lands owned by public organizations which are authorized by law to perform governmental functions.

b. Prior to advertisement for bids, port authorities shall submit verifiable evidence that they either own the land or they have entered into an agreement with the public body that owns the land.

5. Number of Applications. An application shall be prepared for each project. If a port authority submits more than one application in a given quarter, the port authority shall prioritize them for review purposes. The top priority project shall be labeled "Priority One" on the title sheet of the application. The next priority project shall be labeled "Priority Two", etc. Due to time constraints and available personnel to evaluate the applications, the department may restrict the evaluation to only the top two priority projects per port in a given application year.

6. Types of Projects. The types of projects that shall be funded by the program shall be limited to the construction, improvement, capital facility rehabilitation, and expansion of publicly-owned port facilities including intermodal facilities and maritime-related industrial park infrastructure development, such as wharves, cargo handling capital equipment, utilities, railroads, primary access road, and buildings which can be shown to be integral components of any port project submitted for funding.

7. Navigation Projects. Funding from the program will not be integrated with or used for the state sponsorship (state matching basis for federal appropriation) for new construction and/or maintenance dredging on federally authorized navigable waterways.

8. Project Commencement. At the application state, projects must be developed sufficiently to allow them to commence within the fiscal year that they are funded. Execution of the project agreement with the department and receipt of preliminary plans by the department shall constitute commencement. Preliminary plans at this stage must be more advanced than plans submitted with the application. Projects that do not commence within the fiscal year that they are funded will result in forfeiture of program funds.

#### 9. Forfeiture of Program Funds

a. If a port authority does not execute the project agreement furnished by the department and return it to the department within 90 days of being mailed to the port authority, then the state funds authorized from the Port Construction and Development Priority Program may be forfeited.

b. If a project is not commenced within the fiscal year that it is funded, then the state funds authorized by the program may be forfeited. A project is considered to have commenced upon delivering the executed project agreement and the preliminary plans to the department. Preliminary plans submitted with the application shall not meet this requirement.

c. If a project is canceled due to not beginning construction within the time frames provided for under the Section on distribution of funds, program funds may be forfeited. Projects which are canceled and program funds forfeited in this manner shall be treated in accordance with the provisions of R.S. 34:3456(A).

d. Advertising a project for bids to construct the project prior to obtaining written notice from the department may result in forfeiture of program funds.

10. Selling Lands, Facilities, or Equipment. Should a port authority sell or dispose of any facilities or equipment, that have been funded in part by the Port Construction and Development Priority Program, the port authority shall reimburse the department for the percentage of project life remaining at the time of the sale. The project life shall be 20 years for structures and 10 years for equipment unless a different period of time is specified in the evaluation of the project. If the land obtained through the program funds is sold at any time DOTD shall be reimbursed at one hundred percent of the original funds dispersed for the purchase of the land including change orders unless the land is transferred to another Public Port subject to the Port Construction and Development Priority Program Rules and Regulations.

11. Maintenance. The port authority is responsible for maintenance and will structure its revenue rates to adequately fund maintenance costs. The port authority may execute an agreement with a tenant providing for maintenance of the project to be funded by the tenant. If such an agreement is executed, then the expenses used for the evaluation of the project will be reduced as explained herein in the Section entitled "Minimum Return on the State's Investment."

12. Discount Rate. The discount rate used in the evaluation process shall be based on the interest rate paid on 20-year U.S. Treasury Inflation Protected Securities (TIPS) which is currently 2.375. The rate will be evaluated every two years and may be adjusted by agreement between the department and the Ports Association of Louisiana (PAL). The adjusted rate will be available from the department upon request.

13. Minimum Return on State's Investment. The minimum rate of return for the state's investment shall be the discount rate as stated herein. This evaluation shall be based on no growth. In calculating the rate of return for this criteria, the cost shall be the total program funds invested. The benefits for this calculation shall be the port revenues less expenses associated with the proposed project. Expenses shall include maintenance and expected operational costs. Generally, the minimum allowance for expenses will be no less than the project cost divided by the project life. If the port authority executes a conditional lease with the tenant and the tenant provides all maintenance, then the minimum expense may be one-half of the project cost divided by the project life. Also, see "Private Investment." The evaluation period shall be the life of the project. If the port sells bonds in order to finance all or a portion of the private investment, only revenues in excess of debt service, operating expenses and satisfaction of bond buyer reserve accounts may be used to determine the return on the state's investment. The minimum rate of return is calculated without growth and

without additional inflation. The port should establish its fees based upon inflation and market conditions.

14. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the Port Construction and Development Priority Program. In calculating the B/C for this criteria, the cost is the total investment, both public and private, required to implement the total project and derive the benefits. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted the project must meet a program benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

15. - 15.a. ...

b. Port authorities that do not comply with this provision will be ineligible to participate in the program until they are determined to be in compliance by the department. The department may audit the reports at program expense.

16. Private Investment. If the private investment exceeds the program investment, then the deduction for expenses may be reduced by the factor derived by dividing the program investment by the private investment. Also, refer to Paragraph 14 "Benefit-Cost Ratio" for possible exemptions to the benefit-cost ratio required for funding.

17. Conditional Projects

a. Projects that meet all of the following conditions may be considered conditional projects:

i. the project must have a total project cost of at least \$15 million;

ii. the private investment must meet or exceed the program share;

iii. the participation of the private sector is contingent upon the availability of program funds, and

iv. the application must demonstrate that all parties worked diligently to submit a complete proposal, but due to factors beyond their control, private sector/local share of funding is not assured.

b. A project that meets the above criteria may be evaluated as having immediate need if all other program requirements are met except the availability of the local and/or private share. If it meets all other requirements and is incorporated into the priority list recommended to the legislature, it will be designated as a conditional project. The sponsor will have 18 months from the date of the letter from the department notifying them of the project's funding to submit documentation that arrangements for the private sector and local share have been finalized. If after 18 months the documentation has not been submitted to and approved by the department, project funding will be withdrawn. If the sponsor desires to seek funding for the project, it will have to submit a new application and compete as a new project. The department may limit funding for these projects to a token amount based on availability of funding.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:751 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1042 (June 2008),

amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

### §2109. Application

#### A. General Instructions

1. Applications may be submitted to the department quarterly no later than the first of March, June, September and December of each calendar year for consideration for funding the following fiscal year. If said day falls on a weekend or holiday, the next working day is the deadline. Contact the Office of Multimodal Commerce for the current address. The application shall be submitted in the format as shown and as follows:

Number of copies: Original and three copies

Time: Before 4 p.m. on the 1st of March, June, September and December

B. Contents. All pages in the application shall be numbered and the application shall be bound. Applications shall be submitted in the following format.

#### Application Format

All applications submitted for funding through the Port Construction and Development Priority Program shall be prepared in accordance with the following format:

##### 1. Title Page

- a. Parish
- b. Project Name
- c. Priority
- d. Application Title
- e. Name of Port Authority
- f. Legislative Delegation
- g. Preparer
- h. Date

##### 2. Description of Proposed Project

- a. Nature and Goals
- b. Funds Requested
- c. Alternatives
- d. Adequacy of Components

##### 3. Demonstration of Immediate Need for Project

- a. Cargo History
- b. Market Analyses
  - i. Extrapolation from Past Trends
  - ii. Diverted Cargo
  - iii. Generated Cargo
- iv. Origins/Destinations
- v. Cargo Handling Revenue
- c. Industrial Development
- d. Prospective Industrial Tenants
- e. Letters of Commitment
- f. Other Factors

##### 4. Preliminary Design, Plans and Cost Estimate

- a. Design Criteria
- b. Design Calculations
- c. Preliminary Construction Plans
- d. Cost Estimate
- e. Progress Schedule

##### 5. Determination of Benefits to the State

- a. Revenues and Expenses
- b. Number of Jobs
- c. Payroll Benefits
- d. Spin-off Benefits of Payroll
- e. Shipping Costs
- f. Other Benefits
- g. Benefits-Costs Tabulation

##### 6. Description of Project Area

##### 7. Impacts of Implementing Proposed Project

##### 8. Master Plan for Port

##### 9. Other Information

- a. Funding Sources
- b. Local Share
- c. Multi-Year Projects
- d. Permits

## Attachments

- A. Resolution
- B. Design Criteria
- C. Design Calculations
- D. Engineering Report
- E. Layout of Existing and Proposed Facilities
- F. Preliminary Construction Plans
- G. Financial Statements
- H. Cargo Tonnage
- I. Port's Master Plan
- J. Commenting Agencies
- K. Other Attachments

1. Title Page. The title page of the application shall be as follows.

a. Parish. In the upper right hand corner of the title page indicate the name of the parish in which the project is proposed to be built.

b. Project Name. Directly below the parish name, enter the project name. The name should have some identifying characteristic of the work that is proposed and should not be an exact duplicate of a project name used in a previous year. If the application is for an extension of a previous project, then the same project name may be used if additional information is incorporated into the name such as Phase 1, Phase 11, etc.

c. Priority. If more than one application is submitted, then indicate the priority directly under the parish. The top priority project should be indicated as "Priority One".

d. Application Title. Approximately one-third from the top of the page and centered place the title, "Application to Louisiana Port Construction and Development Priority Program".

e. Name of Port Authority. In the middle of the page from the top indicate the legal name of the port authority, address, telephone and fax numbers, and authorized representative.

f. Legislative Delegation. In the lower one-third of the page, provide the names and district numbers of the senators and representatives within whose districts the project is proposed.

g. Preparer. If different from the authorized representative, provide the name, address, telephone, and fax number of the person who prepared the application.

h. Date. Centered at the bottom of the page, state the month and year in which the application was submitted.

### 2. Description of Proposed Project

a. Nature and Goals. Provide a narrative description of the proposed project and the total project. The descriptions are to be in sufficient detail to clearly convey the purpose, design, and major components of the project and the total project.

b. Funds Requested. Indicate the amount of funds needed for the project and the total project. Also show the expected funding sources such as programs, port authority, federal, and other. If the project will be implemented in two years, the amounts needed for each year shall be shown.

c. Alternatives. Discuss alternatives, and state the reason they were not selected. At least one alternative solution shall be discussed and developed in sufficient detail to ensure that the proposed project was selected as the result of an objective analysis. Explain why the proposed project was selected over the alternatives.

d. Adequacy of Components. New port projects often create operational bottlenecks in supporting infrastructure such as access roads, warehouses, and yard spaces. Identify all the components necessary to derive the benefits stated. Go from a logical terminus, through the port to another logical terminus. For example, the discussion of the necessary project components may begin in the gulf, go through the navigational channels to the port, unload at the port, reload at the port onto a railroad car, and from the rail spur to a main line. A trucking operation may terminate at a state highway that is capable of handling the added traffic satisfactorily. Indicate whether these components are existing or proposed. For all existing components, discuss the adequacy of the components. For all proposed components, indicate what is proposed, by whom, when, and what is the estimated cost. Verifying documentation may be included in §2109.B.

3. Demonstration of Immediate Need for Project. Provide a demonstration of the immediate need for the project and supply supporting documentation. This portion of the application is extremely important. Most of the information provided in this section are forecasts and estimates. Therefore, sufficient attention should be given to adequately communicate and document the need for the proposed port project through detailed market analyses and commitments by port users to utilize the expanded project facilities.

a. Cargo History. Indicate the total cargo and revenue cargo that was handled by the port in the last five years. List the cargo by type (bulk, break-bulk, neo-bulk, containers) and volumes. Analyze trends of cargo growth and the underlying reasons. Establish the level of utilization of existing facilities in relation to cargo volumes handles. If congestion was experienced, identify facility bottlenecks and describe how they were overcome. Also indicate the sources of all data.

i. If the project is expected to be leased to a tenant, then the cargo history is for the tenant and not the port. If the tenant has no cargo history or will only move a minimal amount of cargo, the port's history may be listed. However, information regarding both the tenant's business history and their business plan should be included to support the project.

ii. Provide a summary in this section of the application. A detailed list of cargo history shall be provided as Attachment H (see §2109.B).

b. Market Analyses. Forecast the cargo which will use the project for the next 10 years. List the type of cargo and volumes expected, along with the market analysis and estimate of the market share. Cargo forecasts and market analyses have to be complete with detailed underlying assumptions and justifications. If cargo forecasts exceed historical trends, provide justification in terms of significant economic and technological developments occurring in the ports service area. If the port facility expansion is in response to increased demand from new industries locating in the area, these location decisions have to be substantiated by comparative cost analyses. As port projects cover diverse types of investments, it is difficult to provide exact industry norms to cover all situations. Some general guidelines on cargo forecasts are provided in this section. These must be considered as general industry norms. Variation from these

norms must be analyzed and justified. If the project is expected to be leased to a tenant which does not specialize in cargo movement, then the market analysis is for the tenant's business and not the port's cargo. This also applies to the following: extrapolation from past trends, diverted cargo, generated cargo, origins and destinations, and cargo handling revenue.

i. **Extrapolation from Past Trends.** The simplest method of cargo forecasting is to extrapolate from past trends, making whatever adjustments that may be necessary to take into account change that are likely to modify these trends. The Freight Analysis Framework provides growth estimates for the movement of freight by all modes of transportation and commodity type through the year 2050. These growth estimates are to be used to forecast traffic growth unless adequate justification is provided to support any deviation. If a particular commodity is not included, then use the total waterborne commerce trend.

ii. **Diverted Cargo.** Cargo may be diverted to a port facility either from other modes of transportation or from other routes. As cargo diversion can occur due to cost differentials in competing modes or routes, comparative cost studies must be presented to justify these cargo flows. If cargo diversion occurs due to establishment of new industries at the waterfront, these location decisions have to be analyzed and justified.

iii. **Generated Cargo.** New industrial and agricultural developments in an area can increase output and these developments may translate into new traffic. In such cases, these sources must be identified and new cargo must be analyzed in terms of volumes, origins and destinations. The total traffic generated must be distributed to different transport modes based on cost considerations.

iv. **Origins/Destinations.** Identify the major origins, routes, and destinations of the forecasted cargos which will use the project. Indicate what route the goods would move if the project is not built. Would the cargo be routed to another facility at the port, via another port in Louisiana, via a port outside of Louisiana, or via a non-water transport means?

c. **Cargo Handling Revenue.** Once the new cargo has been forecast, the revenue to be derived may be estimated. Use existing port tariff rates to make these estimates.

d. **Industrial Development.** What new industrial development would result from the project; without the project, where would this development otherwise occur?

e. **Prospective Industrial Tenants.** List prospective industrial tenants, indicate if confidential. If tenants are to be located at the waterfront, sufficient reasons have to be provided that such a location is critical to their operations.

f. **Letters of Commitment.** Include letters of commitment from users, indicate if confidential. Discuss whether commitments have already been made in terms of investments and planning and what other assurances (for example, executed lease agreements) are available to the port that the commitments will be met. If the viability of the project depends on these commitments, sensitivity analyses should be conducted to analyze the alternatives available to the port in the event the commitments are not met by the port users. The inclusion of the following types of information into the letter will be useful:

- i. the amount that the user/tenant is willing to pay for use of the project;
- ii. anticipated cargo tonnages;
- iii. number of jobs created/saved by the project;
- iv. amount of investment the user is expecting to make on the project; and
- v. length of time to which the user is willing to commit.

g. **Other Factors.** Discuss other factors that may justify the proposed project.

4. **Preliminary Design, Plans and Cost Estimate.** To further describe the proposed port improvement, provide a brief discussion of the design, preliminary plans, and cost estimate. The level of detail of the design, plans, and cost estimate should be adequate to allow developing final plans in approximately six to eight months since a construction contract should be awarded within one year of project funding.

a. **Design Criteria.** The design criteria needed to obtain the stated benefits are to be submitted as Attachment B (see §2109.B).

b. **Design Calculations.** Design calculations are to be submitted as Attachment C (see §2109.B).

c. **Preliminary Construction Plans.** The plans shall be included as Attachment F (see §2109.B) The level of detail shall be sufficient to conceptually convey the project components and requirements.

d. **Cost Estimate.** The detailed cost estimate for the project shall identify construction costs, land, mitigation, engineering, legal and administration. Recurring maintenance costs shall also be estimated and included in this section. The estimate should also detail the costs of equipment and construction activities to at least the level to allow verification of the estimate. For each component, provide the description, quantity, unit of measure and unit price. Avoid the use of lump sum where possible.

i. In addition to the above, estimates of related investments made by the industrial tenants also have to be included to take into account the cost of the total project. If, for example, an industrial development is anticipated consequent to the project and benefits are claimed, associated costs should also be included as total project costs. The estimate should be of similar detail to that required for the portion of the project to be funded by the program.

e. **Progress Schedule.** Provide an anticipated progress schedule for plan preparation and construction of the project, by phases if applicable. Indicate the beginning and ending dates for both.

#### 5. Determination of Benefits to the State

a. **General.** Benefits from the proposed project will be evaluated from the state's point of view, which includes the taxpayer's point of view and the port's point of view. All of the benefit will not be derived until the investment for the total project has been made and all of the necessary components are adequate. Estimating these benefits is a key element in the application process. Sufficient attention should be given to substantiate procedures adopted in quantifying benefits and in providing supporting documents. Overall, benefit estimates should be logical, verifiable, and based on sound judgment and acceptable industry norms. Claimed benefits will be adjusted to conform to industry



norms unless adequate justification is provided. In order to make a proper allocation of funds among the requests, it is necessary to have a clear understanding of each project's expected net benefits to the state. The term *net benefits* means the difference in the benefits to be derived "with the project" and those to be derived "without the project". For example, when port improvements are implemented, there is usually a higher level of facility costs, mostly for construction. This is offset by the benefits including a reduced level of other costs (vessel operating costs, cargo handling costs, maintenance costs, etc.). There may be an increase in economic activities, improved (or worsened) environmental consequence, etc. All of these benefits are relative, i.e., they are based on the spread between what would happen with the new project vs. what would happen without the new project. In other words, to determine the benefits, it is necessary to evaluate the cargo flow projection, transportation costs savings, impact on other Louisiana ports, etc., without the project as well as with the project. Only then can the costs and gains under both scenarios be compared. The difference is the net benefits to be derived.

b. Revenues and Expenses. Estimate the port revenues for both with and without project conditions. Also estimate the operating expenses with and without the proposed project (e.g., labor, utilities, etc.). These estimates have to be based on present and future port tariff rates to

conform to industry norms. Only projects that will realize the minimum return on the state's investment as defined herein will be funded by the program.

c. Number of Jobs. Indicate the number of permanent jobs that would be created and/or existing jobs saved from implementing the project. How many of these jobs are port related and how many are industrial jobs, what is the total payroll for each; without the project, where would these jobs otherwise be created? Do not include temporary jobs created by construction activities. The estimate of number of new jobs created shall conform to industry norms such as capital investment/worker and volume of cargo handled/worker and number of employees per firm. If jobs are displaced elsewhere in the state, these jobs shall be subtracted from the jobs created or saved by the project. Figure 1 below indicates the employment profile for major port related industries in Louisiana. The average number of employees per firm provides the typical characteristics of a firm. It should be noted that a large percentage of firms employ less than 50 workers. Therefore, employment estimates must be justified on a case-by-case basis analyzing the nature of operations of the prospective industrial tenants. In general, it is likely that ports in rural areas with less populations support smaller firms and the few large firms are supported by large metropolitan areas. There may be exceptions to this general rule.

**Figure 1: Classification of Commercial Firms in Louisiana by Employment Size**

Industry Category	Total Employees	Total Firms	Average per Firm	Number of Firms by Employee Size								
				1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	1,000+
Agriculture Services, Forestry, Fishing and Hunting	3,645	534	7	299	90	29	10	0	0	0	0	0
Mining	40,123	1,310	31	591	145	144	186	57	35	3	0	5
Manufacturing	118,959	3,052	39	1,010	539	476	443	214	137	23	6	0
Transportation and Warehousing	72,521	3,701	20	1,904	575	445	378	153	78	10	4	0

Source: County Business Patterns: 2020 Louisiana - U.S. Census Bureau

d. Payroll Benefits. Standard payroll estimates provided in Figure 2 shall be used in estimating payroll benefits in order to equitably evaluate applications for funding through the program. The department will adjust the payroll and spin-off benefits for inflation using the U.S. Department of Labor's Consumer Price Index. If job benefits are assumed to continue unchanged into the future, then an implication is made that those individuals employed as a result of the project would not otherwise find employment. This is not reasonable, as employment will ebb and flow over time. As true net benefits from employment diminish over time, the payroll benefits resulting from the project have to be allowed to decay in a linear fashion annually, reaching zero at the end of the project life.

**Figure 2. Average Annual Earnings by Category for Port Related Industries**

Work Category	Average Annual Earnings
Transportation, Storage, and Distribution Managers (11 - 3071)	\$98,850
First-line Supervisors of Transportation and Material Moving Workers, Except Aircraft Cargo Handling Supervisors (53 - 1047)	\$57,550
Structural Metal Fabricators and Fitters (51 - 2041)	\$43,840
Laborers and Freight, Stock, and Material Movers, Hand (53 - 7062)	\$30,170

Source: Louisiana - May 2021 OES State Occupational Employment and Wage Estimates - United State Department of Labor, Bureau of Labor Statistics, May 2019.  
[https://www.bls.gov/oes/current/oes\\_la.htm#53-0000](https://www.bls.gov/oes/current/oes_la.htm#53-0000)  
 Data released March 31, 2022

e. **Spin-Off Benefits of Payroll.** New payroll generated by the project results in spin-off benefits in the local economy. In order to calculate the spin-off benefits, assume that they are equal to the payroll benefits directly created or maintained by the project. If a project will have \$100,000 payroll benefits in a year, then the spin-off benefits also equal \$100,000. Spin-off benefits will also decay in a linear fashion annually, reaching zero at the end of its project life.

f. **Shipping Costs.** If the proposed project will alter shipping costs, identify these costs with and without the project. Cost estimates should conform to general industry norms.

g. **Other Benefits.** Identify any other benefits that would result from the project.

h. **Benefits-Costs Tabulation.** Tabulate the project's benefits and costs over the project's life. Remember that all the benefits will not be derived until all of the components that are identified in "Adequacy of Components" are implemented and are adequate.

6. **Description of Project Area.** Provide a narrative description of the project area. The description shall include the location of the existing port, navigable waterways to the port, rail and highway access, location of neighboring ports competing for cargo, unemployment rate, land use adjacent to the port, and soil conditions in and around the port. Identify all major commodities which are handled by competing ports.

7. **Impacts of Implementing Proposed Project**

a. An assessment of the impacts associated with the implementation of the proposed project shall be submitted. Usually the economic, environmental, and other impacts shall be identified. A detailed environmental assessment is not required by this program but may be required to obtain certain permits.

b. The economic impacts may be indicated by the number of permanent jobs created or saved and the annual payroll resulting from the proposed port improvement. This information is reported in §2109.B.5, "Determination of Benefits to the State."

c. The environmental impacts shall be identified as to the effects on the following:

- i. water quality;
- ii. habitat modification;
- iii. fish and wildlife resources;
- iv. cultural, historical, and archeological features.

d. Any other impact(s) shall also be identified. The impact of the proposed project on other ports in the state, (e.g., diversion of cargoes or industrial activities, etc., from other state's ports) shall be stated.

e. If the project is expected to generate over one hundred inbound and outbound trips in an hour or more than 750 trips a day, then a traffic impact study with comments from the Metropolitan Planning Organization and/or the Regional Planning Commission is required. Said study is to identify adverse impacts on the transportation network and to mitigate negative impacts.

f. The assessment is to indicate whether the impacts are short-term or long-term, direct or indirect, and adverse or beneficial. Applicants may seek comments from appropriate state and federal agencies.

8. **Master Plan for Port.** Discuss how the proposed project complies with the port's master plan or why it does not. Indicate when the master plan was adopted by the port authority. Copies of the master plan are to be submitted with the application as Attachment I. (Refer to Page Application 22, I. Port's Master Plan.)

9. **Other Information**

a. **Funding Sources:** Identify all sources and amounts of funding, such as port, program, federal, state, parish, private and other. Clearly indicate if any type of bonds will be sold to assist in financing the project. Indicate if an application for other funds has been submitted and if a commitment has been received. Provide a status of the port authorities' 10 percent local match.

b. **Multi-Year Projects.** If the project will require more than one year to complete, summarize the anticipated investment schedule required for full completion of the proposed project.

c. **Permits.** List all necessary permits, indicate the status of permit acquisition, and indicate project compliance with permit requirements.

C. **Attachments**

1. **Resolution.** Provide certified copies of the resolution adopted by the port authority similar to the sample resolution in the appendix indicating that the port authority is knowledgeable and is agreeable to its duties and responsibilities in participating in the Port Development and Construction Priority Program.

2. **Design Criteria.** Include the design criteria necessary to properly design the project.

3. **Design Calculations.** Include the design calculations and soil investigations; the level of detail of the design should be sufficient to allow the award of a construction contract within the year of funding.

4. **Engineering Report.** Provide copies of the engineering report and geotechnical report, if applicable.

5. **Layout of Existing and Proposed Facilities.** Submit a layout of existing and proposed facilities.

6. **Preliminary Construction Plans.** Enclose preliminary construction plans in sufficient detail to allow the award of a construction contract within a year of funding.

7. **Financial Statements.** Provide financial statements for the last five years. The financial statements shall show assets, liabilities, profit and loss and include the accountant's letter transmitting the statement to the port authority and notes of explanation.

8. **Cargo Tonnage.** List the total amount of cargo by commodity for the port for the same periods covered by the financial statements. The commodity classification shall be the commodity classification for domestic waterborne commerce.

9. **Port's Master Plan.** The port's master plan is to be submitted with the application. If the port does not have a master plan, then it should submit a layout of existing facilities and an explanation why the port does not have a master plan. If the port has submitted a current copy with an application that was recommended by the department in the last three years, the port does not have to submit a master plan.

10. Commenting Agencies. Letters of comment from appropriate state and federal agencies responding to applicant's solicitation of views, if appropriate.

11. Other Attachments. Any other attachments that may be helpful in evaluating the proposed project may be included as other attachments.

D. Information Sources. Information and data that may be useful in estimating the costs and benefits and in completing the project application is available from a number of sources. Some of these sources are local records from engineers, marketing surveys conducted by private firms, local industry performance standards, and performance records of the port. Selected references from federal, state, and local agencies are listed and described below.

1. Louisiana Labor Market Information, Louisiana Workforce Commission, Baton Rouge, Louisiana. A monthly publication providing the following labor market information by parishes and by major metropolitan statistical areas (MSA) in Louisiana:

- a. the Louisiana economic situation;
- b. non-agricultural wage and salary employment;
- c. average hours and earnings in manufacturing;
- d. consumer price index;
- e. employment and payroll trends.

2. Directory of Louisiana Manufacturers, Louisiana Department of Economic Development, Baton Rouge, Louisiana. Presents data on the following:

- a. companies located in Louisiana and products manufactured;
- b. companies employing more than 250 workers;
- c. manufacturers of specific products in Louisiana by standard industrial classification (SIC) codes;
- d. parent firms of companies.

3.a. U.S. Army Corps of Engineers, Waterborne Commerce of the United States, Part 1-5, Department of the Army, Water Resources Support Center, Fort Belvoir, Virginia. The data collected in this publication consists of vessel and cargo movement information reported to the Corps of Engineers by carriers engaged in commercial transportation of goods on the navigable waterways and international trade and also international trade data provided by the Bureau of the Census. Part 2 of this publication covers waterways and harbors in the Gulf Coast and Mississippi River System. Current issues of this publication can be obtained from the Commander, U.S. Army Engineers District, Box 60267, New Orleans, LA 70160-0267.

b. U.S. Army Corps of Engineers, Other Data Sources.

c. Public Domain Database: Contains aggregated information which depicts waterborne commodity movement between different regions and states sorted by origin, by destination, and by commodity. Special Requests for Waterborne Commerce Statistics: The Waterborne Commerce Statistics Center (WCSC) handles special requests for statistics on a case-by-case basis. These requests are characterized by the need for information not contained in the aforementioned Waterborne Commerce of the United States.

d. For more information on data sources available to the public from the U.S. Army Corps of Engineers, request a free copy of Products and Services Available to the

Public from Data Request Office, Waterborne Commerce Statistics Center, U.S. Army Corps of Engineers, Box 61280, New Orleans, LA 70161-1280.

4. Port Import/Export Reporting Services (PIERS), Journal of Commerce, Inc., New York. PIERS data services provides detailed information on foreign trade, identifying commodity descriptions, origins and destinations, consignees and shippers, and tonnage of individual shipments. This data can be selected to suit individual specifications and obtained on tape, diskette, or hard copy reports.

5. County Business Patterns, 2022 Louisiana, U.S. Department of Commerce, Bureau of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 2022. Provides information on industrial establishments, number of employees, payrolls by major groups of industries and by individual parishes.

6. 2022 Census of Manufacturers—Geographic Area Series—Louisiana, U.S. Department of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 2022. This publication provides the following aggregate data on commercial establishments by parishes and metropolitan areas:

- a. number of companies, employment and payroll, production worker-hours, and worker-wages;
- b. value of shipments, cost of materials, and value added;
- c. beginning and end of year inventories;
- d. expenditures, assets, rents, and purchased services.

7. Agricultural Statistics and Prices for Louisiana, Louisiana Agricultural Experiment Station, Louisiana State University Agricultural Center, Baton Rouge, Louisiana—This publication provides data on agricultural product prices, average value of farm assets, acreage, and production.

8. Other Publications

a. Moving America—New Directions, New Opportunities, a statement of National Transportation Policy Strategies for Action, U.S. Department of Transportation, Washington, D.C., February 1990.

b. National Transportation Strategic Planning Study, U.S. Department of Transportation, Washington, D.C., March 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:752 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1044 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

#### §2111. Evaluation

A. Analysis. In determining a score to prioritize the request for funds, the following factors will be considered:

1. technical feasibility;
2. economic feasibility;
3. economic impacts; and
4. port management.

a. **Technical Feasibility.** Indicators of technical feasibility are as follows:

- i. completeness of project design;
- ii. appropriate consideration of alternatives;
- iii. compatibility of project to port's master plan;
- iv. level of detail of preliminary plans (should be adequate to allow award of a construction contract within a year but still allow input from the department);
- v. items of work as shown in the cost estimate are at a level of detail that may be readily verified.

b. **Economic Feasibility.** The primary factor in determining economic feasibility is the benefit-cost ratio. For purposes of evaluation, the investment is the amount of program funds needed for the proposed port improvement project.

c. **Economic Impacts.** The economic impacts are to be analyzed by the number of permanent jobs created or saved by the port improvement project after construction.

d. **Port Management.** The primary factor in appraising the management of the port is the average return on investment for the last five years.

e. **Location.** The elements in assessing the port's location are as follows:

- i. adequacy of the navigable waterways;
- ii. suitable railroad access;
- iii. ample highway facilities;
- iv. location of nearest competing port.

f. **Multi-Year Projects.** Multi-year projects will receive priority over new projects after the initial year of funding, provided the years are consecutive and the implementation of the previous year components was in accordance with the Program Procedure Manual.

#### B. Methodology

1. The procedure for evaluating applications for funding is as follows.

a. **Completeness.** If an application is complete, then proceed, otherwise advise applicant so that he may provide missing data for funding consideration next submittal date.

b. **Need.** Is the need verifiable and real? If not then application will be rejected.

c. **Location.** The port must be located on an adequate navigable waterway, and upon completion of the proposed port improvement, have sufficient rail and/or highway access. Also, the port must be situated so that the improvement will not just shift trade from one Louisiana port to another. Noncompliance will result in rejection.

d. the minimum rate of return for the state's investment as defined herein or more shall be funded by the program.

e. **Benefit-Cost Ratio.** Only projects that have a benefit-cost ratio equal to one or more shall be funded by the program. In calculating the B/C for this criteria, the cost shall be the total investment, both private and public, needed to implement the total project and derive the benefits. Note that the B/C used in the economic feasibility is based on program funds in lieu of total investment.

i. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted, the project must meet a program

benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

f. **Technical Feasibility (60 points)** To proceed, the technical feasibility score must be 40 or more.

g. **Economic Feasibility (250 points)** Projects with benefit-cost ratios greater than 10 are scored from 100 to 250 points with the highest of those ratios receiving 250 points. The remaining projects with benefit-cost ratios greater than 10 are pro-rated. Projects with benefit-cost ratios of 10 or less are scored from 0 to 100 points with the highest of those ratios receiving 100 points. The remaining projects with benefit-cost ratios of 10 or less are pro-rated.

h. **Economic Impacts. (20 points)** The project which creates or saves the most jobs per state investment receive the maximum points. The others are pro-rated.

i. **Management of Port. (20 points)** The port with the highest rate of return on investment for the last five years will receive 20 points. The others are pro-rated.

2. After the applications have been analyzed, they shall be graded by the department according to the point system above. The projects will then be prioritized by score.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:758 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1046 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

#### §2113. Distribution of Funds

A. **Funding.** Program funds shall be distributed in accordance with the approved construction program. The funding for any single project that is submitted to the legislature for funding may be limited to a maximum legislative funding authority of \$9 million. The department may increase the funding limit for a fiscal year based on the availability of funds. The department may consult with PAL regarding the limit; but, the final limit shall be at the sole discretion of the department.

i. The actual distribution of these funds to the ports for each approved project shall be at the sole discretion of the department. The department may consult with PAL in determining this distribution.

ii. The department may limit the funding distribution to each port authority to no more than one-third 1/3 per year of the single project maximum legislative funding authority established by the department for the fiscal year.

B. **Construction.** Should the funding level be insufficient to fund all the projects that have been recommended, then the unfunded projects will be included in the recommended list of projects the following year. An unfunded project may be included in the recommended list of projects up to four years without port authority re-submitting an application. If a reimbursement agreement has been executed with the department and the project has begun construction prior to the expiration of the four year period, then the project will remain on said list until all program funds have been authorized.

C. Cancellation. The department may cancel any project that is not under construction with the below mentioned time limits and any unexpected proceeds may be reallocated to another port project: (The award of a construction contract shall satisfy the requirement to be "under construction.")

1. for projects that are completely funded in one fiscal year, within 18 months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

2. for projects that are completely funded over two fiscal years, within 12 months of the date of notification from the secretary of the department, or his designated representative, that the project has sufficient funding to be completed;

3. for projects that are completely funded over three or more fiscal years, within six months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

4. for projects that have approval from the department to be divided into more than one construction contract, the above time frames apply to each independent contract that has sufficient funding to be completed. An independent contract shall be a contract that does not require the completion of another contract in order to be constructed. Each additional dependent contract shall be constructed within six months from completion of the contract that it is dependent upon;

5. if a port authority has a project that is eligible for cancellation under the provisions of this Section, the port shall not be eligible to submit an application for funding or to receive additional funding for previously recommended projects until the port authority officially withdraws its project, or until the project, including all approved phases, has been completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:759 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1046 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

### **§2115. Reimbursement**

A. - A.3. ....

B. If the sponsoring port authority desires to construct the project or approved phase of the project under the reimbursement option, it must submit a request to the department and execute a project agreement prior to commencement of any work. Projects or approved phases that are advertised for bids under the reimbursement option shall be completed under the reimbursement option whether or not funding or funding obligation authority has been made available by the legislature prior to the completion of the project or approved phase.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:3451-3463.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Public Works, LR 34:1047 (June 2008), amended LR 49:

### **Family Impact Statement**

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

### **Poverty Impact Statement**

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Analysis**

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

### **Provider Impact Statement**

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level

requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

#### Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Molly Bourgoyne, Ports and Waterways Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245. Telephone (225) 379-3033.

Shawn D. Wilson, Ph.D.  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Louisiana Port Construction and Development Priority Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the proposed rule change is estimated at \$1,300, which accounts for the cost to publish the Notice of Intent and the Rules in the State Register. The proposed rule change will revise the 2008 Port Construction and Development Priority Program Rules and Regulations to reflect current DOTD policies and update data and tables.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes should have no impact on revenue collections for state or local government units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes should have no impact on state or local government units on revenue collections. Public Ports in the State would use updated data from the U.S. Department of Labor for their applications to the Port Construction and Development Priority Program.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no direct material effect on competition and employment as a result of the proposed rule changes.

Eric Kaliugda  
Secretary  
2304#015

Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Office of Operations

#### Toll Exemptions—Grand Isle School System Employees (LAC 70:XI.101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in Title 17:426 of the Revised Statutes that the Department of Transportation and Development, Office of Operations, Tolling Section, proposes to amend §101 of Part XI of Title 70 entitled "Exempt Entities" for the purpose of allowing and including the free and unhampered passage on the Louisiana Highway 1 Bridge to Grand Isle School System Employees when traveling to and from their workplace.

#### Title 70

### TRANSPORTATION AND DEVELOPMENT

#### Part XI. Louisiana Transportation Authority

#### Chapter 1. Toll Exemptions—LA 1

#### §101. Exempt Entities

##### A. - A.9.d. ...

#### 10. Grand Isle School System Employees

a. The right of free passage for school employees employed by Grand Isle School System under the jurisdiction of the Jefferson Parish School Board shall be exercised only by means of automatic vehicular identification toll tags.

b. For each employee that will be utilizing an automatic vehicular identification toll tag, the appropriate school district shall submit a valid driver's license, vehicle registration certificate, and employment verification documentation.

c. Upon the submission of the requested documentation by the appropriate school district and payment of a deposit for a GeauxPass account, the department or its agents when so designated or authorized by the secretary of the department, shall issue the requested number of automatic vehicular identification toll tags for use in connection with the exemption from tolls.

d. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by school employees when traveling to and from their workplace on a scheduled work day, as prescribed by the school board, not to exceed two toll-free crossings in one day.

e. The appropriate school district shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:426, et seq.