

# STARR COUNTY, TEXAS



## PURCHASING POLICIES AND PROCEDURES MANUAL

Commissioner's Court Approval Date:	<u>November 08, 2013</u>
Revision Date:	<u>December 23, 2016</u>
Revision Date:	<u>June 26, 2017</u>
Revision Date:	<u>June 28, 2021</u>
Revision Date:	<u>June 27, 2022</u>
Revision Date:	<u>July 14, 2025</u>
Revision Date:	<u>September 24, 2025</u>
Revision Date:	<u>February 09, 2026</u>

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## **PURCHASING POLICIES AND PROCEDURES**

The purpose of this manual is to establish uniform policies and procedures for the procurement of materials and services that are consistent with Vernon's Texas Codes Annotated (Sec. 262.00), a.k.a. Texas Local Government Code, and policies of Starr County.

These procedures apply to all material and service purchases and relation activities.

It is the individual responsibility of each employee involved in the procurement process to understand the policies upon which these procedures are based, the meaning, and intent of the procedures themselves.

If there are any questions relative to policy or procedure, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of the employee to bring such matters to the attention of their immediate supervisor before any action is taken.

The fundamental purpose of these procedures is not to restrict the effectiveness of the individuals involved in the procurement, but to provide a foundation for effective and consistent practices resulting in a positive and professional relationship between Starr County and the vendors from whom we are served.

## DEFINITIONS

**Advertisement or Advertised** - A public notice run in a newspaper of general circulation containing information about an invitation for bid or a request for proposal.

**Auditor** - Starr County Auditor and his/her designated representatives.

**Bidders list** - A list of vendors who have signified in writing an interest in submitting bids for particular categories or services.

**Change order** - A document used in construction contracts that changes the contract by increasing or decreasing the cost or the time for performance or changes the goods or services to be delivered.

**Commissioners Court** – Starr County Commissioners Court consisting of the County Judge and the four Precinct Commissioners.

**Competitive bidding** – The formal process of soliciting sealed bids from vendors as governed by Local Government Code §262.023.

**Contract** – A formal, written agreement executed by the county and a vendor containing the terms and conditions under which the goods or services are to be furnished to the county.

**Department** – Any county, precinct, district offices, and subdivisions thereof.

**Employee** – Any county, precinct or district employee elected, appointed, or hired.

**Goods** – Includes any personal property to be purchased by the county, including equipment, supplies, material, and component or repair parts.

**Lease** – A contract for the use of personal property for a period of time in return for a specified compensation. All leases must be approved by the Commissioners Court and signed by the County Judge.

**Lowest responsible bid** – The offer from the responsible bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It expressly is understood that the lowest responsible bid includes any related costs to the county in a total cost concept. The term “responsible” refers to the financial and practical ability of the bidder to perform the contract and take into consideration the past performance of the vendor.

**Modification** – A document used to change the terms and/or conditions of a contract.

**Pass-through entity** -A recipient or subrecipient that provides a subaward to a subrecipient (including lower tier subrecipients) to carry out part of a Federal program. The authority of the pass-through entity under this part flows through the subaward agreement between the pass-through entity and subrecipient.

**Pre-bid/proposal conference** – A conference conducted by the purchasing office for the benefit of those wishing to submit a bid or proposal for services or supplies required by the county. This is to allow bidders/proposers to ask questions about any proposed contract and the specifications contained therein.

**Proprietary information** – Information in bids or proposals to which a vendor claims ownership or exclusive rights and which are protected from disclosure in the Texas Open Records Act (Texas Local Government Code, Chapter 551).

**Purchase Order** – A written order issued by the Purchasing Agent, or designee, authorizing the purchasing office to enter into a contract with a vendor to purchase goods or services.

**Purchase Requisition** – A request by a department to the Purchasing Agent for the purchasing department to enter into a contract with a vendor to purchase particular goods or services.

**Purchasing** – The act, function, and responsibility for the acquisition of goods and services including construction.

**Purchasing Act** – As defined in the Texas local Government Code, Chapter 262.

**Purchasing Agent** – In Starr County, the Purchasing Agent and/or designee is employed by the Starr County Commissioners Court.

**Request for Offer (RFO)** – An RFO provides a method of negotiating prices, terms, and conditions with catalogue vendors. It assumes that negotiation for “best value” will occur with catalogue vendors, instead of making selections for goods and services based on the published prices, terms and conditions in the catalogues.

**Request for Proposal (RFP)** – A document requesting an offer be made by a vendor which allows for negotiations after a proposal has been received but before award of the contract for goods and services procured in compliance with TEX, LOC, GOV’T CODE ANN, section 262.0295 or 262.030. All proposals are confidential information and will be open to the public after the award has been made.

**Request for Qualifications (RFQ)** – A document that requests details about the qualifications or professionals whose services must be obtained in compliance with the Professional Services Procurement Act.

**Sealed bids** – Competitive Bids required to be advertised in a newspaper of general circulation and submitted to the purchasing office in a sealed envelope within the specified time period.

**Services** – Includes all work or labor performed for the county on an independent contractor basis, including maintenance, construction, manual, clerical, or professional services.

**Sole source good or service** – A good or service that can be obtained from only one source that is purchased in compliance with TEX, LOC, GOV’T CODE ANN., section 262.024 (a)(7) and (c).

**Solicitation** – A document, such as an Invitation for Bid, Request for Proposal, Request for Offers, or Request for Qualifications, issued by the purchasing office. The document contains the terms and conditions for a contract and seeks (solicits) a bid or proposal for goods or services needed by the County.

**Specifications** – A concise description of a good or service that the County seeks to buy, including the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any items for delivery, or preparing or installing it for use.

**Subaward**- An award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a federal award received by the pass-through entity. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in with [§200.331](#), including an agreement the pass-through entity considers a contract.

**Subrecipient** - An entity that receives a subaward from a pass-through entity to carry out part of a federal award. The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other Federal awards directly from a federal agency.

**Vendor** – One who sells a good or service.

## **PURCHASING AUTHORITY**

### **Purchasing Laws**

It is the policy of Starr County, to comply fully with all purchasing laws and amendments of the State of Texas.

### **Authority**

These policies and procedures are adopted and approved by the Commissioners Court acting in its capacity as the governing body of Starr County, Texas. Starr County adopts these policies and procedures under the authority of Texas Local Government Code, Chapter 262.

### **Effective Date**

These policies and procedures will become effective upon approval by Commissioners Court.

## **PURCHASING POLICY**

The Commissioner's Court has directed the County Auditor and County Department Heads to provide a decentralized purchasing structure.

Each Department - as well as officials, managers and employees will provide to all responsible vendors an equitable and competitive access to County procurement process.

Further, County purchasing will be conducted in a manner that will promote and foster public confidence in the integrity of the County procurement process.

The County Purchasing Policy is to:

- Seek the best quality, lowest priced goods and services available that meet the needs and delivery requirements of Starr County personnel;
- Provide all responsible vendors and contractors, including DBE's, with equitable access to servicing the needs of Starr County and its personnel through the competitive bidding of goods and services;
- Comply with all state laws that apply to county purchasing and with the policies and procedures in this manual;
- Manage all County assets and inventory so that replacement costs are minimized and Starr County can account for those assets; and
- Disposal of all surplus, salvage and seized and abandoned property in a manner that provides the most benefit to the taxpayers of the county and complies with the law.

Each Department Head shall be responsible for the purchase or lease of all goods and services, including maintenance and repair, for their respective department(s).

## **COUNTY PURCHASING ACT**

The Purchasing Act applies to all departments: all district, county, precinct officials, employees and subdivisions of all district, county and precinct offices.

The County Purchasing Act provides a general legal and procedural framework that emphasizes price (rather than total cost and value), openness, control, and accountability rather than efficiency. It is the duty of the county's chief procurement official to review and to recommend periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.

In Texas counties there are usually ONLY TWO entities that have the authority to sign procurement documents: the Commissioners Court as a voting body only, and the county purchasing agent. The Commissioners Court must approve all contracts exceeding the statutory limit and the purchasing agent must approve all contracts under the statutory limit. Program officials typically do not have procurement authority unless specifically authorized by Commissioners Court under authority of the Purchasing Act or other government code.

The Purchasing Act specifically states (Section 262.011(d)): "The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee the county, except purchases and contract required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repair."

(e) "The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract."

(f) "A purchase made by the purchasing agent shall be paid for by a warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor a warrant for a purchase unless the purchase is made by the purchasing agent or on competitive bid as provided by law."

(i) "On July 1 of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all property on hand and belonging to the County and each department and employee..."

(j) "To prevent unnecessary purchases, the county purchasing agent, with approval of the commissioners court, shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to

another” office. The purchasing agent shall furnish to the Auditor a list of transferred goods.

## **VIOLATIONS OF THE ACT**

Any person who knowingly violates or authorizes the violation of the Purchasing Act commits a criminal offense which is a misdemeanor. This offense is punishable by a fine between \$10 and \$100, by not less than 30 days or more than one year in the county jail, or by both. Each act in violation of the law is a separate offense. § 262.011(m)

The following purchasing strategies that are made with the intention of avoiding formal competitive bidding are in violation of the law: (§ 262.023)

- **COMPONENT PURCHASES:** purchasing a series of component parts of an item that normally would be purchased as a whole.
- **SEPARATE PURCHASES:** purchasing goods and services in a series of separate purchases that in normal purchasing practices, would have been purchased in one purchase.
- **SEQUENTIAL PURCHASES:** purchases made over a period of time that in normal purchasing practices would be made as one purchase.

**CAUTION: Intentionally separating purchases/invoices to avoid the statutory limit competitive bidding is a violation of the Purchasing Act. (§262.034 & §262.035)**

A final conviction of a county officer or employee for this violation results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible:

1. to be a candidate for or to be appointed or elected to a public office in this state;
2. to be employed by the county with which the person served when the offense occurred;  
and
3. to receive any compensation through a contract with that county.

Any commitment to acquire goods or services without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order may be held personally responsible for the payment.

Additional PURCHASING LAWS that govern county purchasing including the following laws:

- Public Property Finance Act, (TEX. LOC. GOV'T CODE ANN., ch. 271, subch. B)
- Services and Products of Severely Disabled, (TEX. HUM. RES. CODE ANN., sec.

122.014)

- Interlocal Cooperation Agreement, (TEX. GOV'T CODE ANN., ch. 791)
- Prompt Payment Act, (TEX. GOV'T CODE ANN., ch. 2251)
- Bidders from other States and 5% Retainage, (TEX. GOV'T CODE ANN., ch. 2252)
- Public Works Performance and Payment Bonds, (TEX. GOV'T CODE ANN., ch. 2253)
- Wage Rate for Construction Projects, (TEX. REV. CIV. STAT. ANN., Art. 5159a)
- Sales tax exemption for incorporated purchases (TEX. TAX CODE ANN. § 151.131)
- Worker's Compensation Compliance (Workers Compensation Rule 110.110)

Counties must also comply with a host of other procurement and financial requirements, including federal procurement requirements which flow through to states and localities receiving federal funds (grants).

## **PROFESSIONAL SERVICES PROCUREMENT ACT**

Professional services are defined in the Professional Services Procurement Act as:

1. those within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, professional engineering, or real estate appraiser as defined by the laws of the State of Texas;
2. those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, professional engineer, or state licensed real estate appraiser in connection with his professional employment or practice.

The Act states that contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

To ensure vendors a fair and equal opportunity to do business with county, and to ensure that the services of the most qualified professional is obtained, commissioners court should direct those professional services be procured using a Request for Qualifications (RFQ) process.

The county shall rank firms based on their qualifications and then enter into negotiations with the most qualified firm based on a fair and reasonable price. If the county is unable to negotiate a satisfactory contract with the most highly qualified vendor, negotiations will formally end with that person or firm. The next most highly qualified vendor will then be asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

If any contract is entered into with one of the above-mentioned professionals on the basis of a competitive bid, it is contrary to state law and is void.

## **BEST VALUE PROCUREMENT POLICY**

The Texas Legislature added the ability for County's to utilize best value analysis for any type of procurement where it has been determined it is in the best interest of the County. The Request for Proposal (RFP) method is used where the evaluation is made by established weighted evaluation factors.

### **Local Government Code Chapter 262 Purchasing and Contracting Authorities of Counties**

#### **Sec. 262.030 ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND SERVICES.**

(a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:

- (1) landscape maintenance;
- (2) travel management; or
- (3) recycling.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. **In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioner's court, that it is in the best interest of the county to make a request for proposals.**

(e) As provided in the request for proposals and under rules adopted by the commissioner's court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(d), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 464, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 3, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(85), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [640](http://www.legis.state.tx.us/tlodocs/79R/billtext/html/HB02694F.HTM), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1272](http://www.legis.state.tx.us/tlodocs/80R/billtext/html/HB03517F.HTM), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1272](http://www.legis.state.tx.us/tlodocs/80R/billtext/html/HB03517F.HTM), Sec. 5, eff. September 1, 2007.

## **MWBE POLICY**

Starr County is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the total procurement process. It is the policy of Starr County to involve qualified minority/women-owned businesses to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects. The County, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Starr County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Starr County.

As an added commitment to minority/women-owned businesses, the Starr County Commissioners Court approved this program which consists of documenting the utilization of MWBE's and asking all vendors and contractors to make a "Good Faith effort" in utilizing such businesses.

### **HISTORICALLY UNDERUTILIZED BUSINESS POLICY (HUB)**

**Tex. Gov. Code Chapter 2161**  
**34 Tex. Admin. Code § 20.14 et seq**

Starr County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. Further, Starr County is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the County's total procurement process. It is the policy of Starr County to involve qualified historically underutilized businesses to the greatest extent feasible in the County's procurement processes. The County, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Starr County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all businesses regardless of size, economic, social or ethnic status. Starr County affirms the good faith efforts of firms/businesses that recognize and practice similar business standards.

#### **Definitions:**

***Historically Underutilized businesses (HUBs)*** – also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his or her identification as a member of certain groups, including women, Black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans and American Indians.

**Certified HUBs** – includes business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies as recognized by Starr County.

**Policy Guidelines:**

- A. HUB Certification** – Starr County will recognize the State of Texas HUB Certification Process in conjunction with the implementation of this policy. Starr County reserves the right to review the certification status of any vendor applying at anytime. This review will determine the validity of the applicable vendor’s certification as HUB.
  
- B. HUB Target Goals** – The Starr County Commissioners Court may establish HUB target goals in compliance with State and Federal Law. It is not the intent of this policy to require the Starr County Commissioners Court to award a contract to other than the lowest possible bidder or best value bidder as required by law. Any Target Goals should consider the diversity of Starr County’s population and the availability of HUB firms within the specific category of goods or services to be procured.
  
- C. HUB Program** – Starr County will include a HUB Policy Statement in all specifications. The County may consider the bidder’s responsiveness to the HUB Policy in the evaluation process. Failure to demonstrate a good faith effort to comply with Starr County’s HUB Policy may result in a bid or proposal being disqualified.

**Administration Guidelines:**

- 1. The Starr County Federal and State Programs Office shall serve as the County’s HUB Office. Starr County will encourage HUB Vendors to participate in all facets of the procurement process by:
  - 2. Seeking communication links with HUB vendors to involve them in the procurement process.
  - 3. Continuing to advertise bids on the County’s website and in newspapers including newspapers that target socially/economically disadvantaged communities; where possible.
  - 4. Providing copies of bid specifications to minority Chambers/Community Business Alliances.
  - 5. Monitoring the HUB policy to include good faith efforts, registered HUB Vendors and reviewing documentation submitted by HUB firms.

**COOPERATIVE PURCHASING PROGRAMS**

A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization (§271.102).

A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will:

1. Designate a person to act in all matters relating to the program;
2. Make payments provided in the agreement;
3. be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery.

A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

## **STATE CONTRACT AND CATALOG PURCHASES**

Created by legislation in 1979, the Texas Procurement and Support Services Cooperative Purchasing Program (State of Texas CO-OP) provides the State of Texas volume pricing power to local governments and assistance organizations. The State of Texas CO-OP offers several purchasing options to members. Specific statutes governing CO-OP purchases from State contracts include:

1. Local Government Code, Section 271.083(4)(b) states: *A local government that purchases an item under a state contract satisfies any state law requiring local governments to seek competitive bids for the purchase of the item.*
2. Government Code, 2155.062 PURCHASE METHODS
  - a. In purchasing goods and services the commission may use, but is no limited to, the:
    - 1) Contract purchase procedure;
    - 2) Multiple award contract procedure, including under any schedules developed under Subchapter I;
    - 3) Open market purchase procedure; or
    - 4) Reverse auction procedure.
  - b. Chapter 2156 provides additional information on purchase methods
  - c. Chapter 2157 provides additional information on purchase of automated information system.

The State of Texas CO-OP has available the following contracts for purchasing:

1. TxSmartBuy ([www.txsmartbuy.com](http://www.txsmartbuy.com))
2. Term Contracts ([www.window.state.tx.us/procurement/cat\\_page/](http://www.window.state.tx.us/procurement/cat_page/))
3. Food Schedules (Contact CO-OP Staff at: (512) 463-3034)
4. TXMAS Contracts ([www.window.state.tx.us/procurement/prog/txmas/](http://www.window.state.tx.us/procurement/prog/txmas/))
5. Department of Information Resources (DIR) Contracts ([www2.dir.state.tx.us/ict/contracts/Pages/ProductsServices.aspx](http://www2.dir.state.tx.us/ict/contracts/Pages/ProductsServices.aspx))

## **FEDERAL FUNDS PURCHASES**

Starr County follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.

### §200.317 Procurements by States

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

### §200.318 General Procurement Standards

(a) The non-federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs

or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(c)(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote costeffective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- (i) The actual cost of materials; and
- (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(j)(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

#### §200.319 Competition

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;

- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

#### §200.320 Methods of Procurement to be Followed

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

**(1) Micro-purchases**

(i) **Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) **Micro-purchase thresholds.** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) (<https://www.ecfr.gov/current/title-48/chapter-1/subchapter-A/part-2/subpart-2.1>) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) **Non-Federal entity increase to the micro-purchase threshold up to \$50,000.** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

## **(2) Small purchases**

(i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

### **(1) Sealed bids**

A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

## **(2) Proposals**

A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and

women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

#### §200.322 Domestic Preferences for Procurements

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

#### §200.323 Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### §200.324 Contract Cost and Price

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

### §200.325 Federal Awarding Agency or Pass-through Entity Review

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
- (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3) The procurement, which is expected to exceed the Simplified Acquisition

Threshold, specifies a “brand name” product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

#### §200.326 Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A

“payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

#### §200.327 Contract provisions

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

### **Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60- 1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage

determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of

parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323\*

(K) See § 200.216\*\*

(L) See § 200.322\*\*\*

\*§ 200.323 Procurement of recovered materials. – A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

\*\*§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment – (a) Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance

and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

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## **BIDS/PROPOSALS**

The purpose of the procedure is to provide guidance for the regulations that apply to purchases of material, equipment, supplies, and services that are required by law to be a competitive sealed bid or request for proposal, V.T.C.A., Local Government Code Sec. 262.023(a).

### **These regulations and procedures apply to all purchases as follows:**

- A contract or purchase of requiring an expenditure that will exceed \$100,000 in the aggregate for a twelve (12) month period.
- Construction, maintenance, repair, renovation of a building or materials for a renovation project valued at \$100,000 or more in the aggregate for a twelve (12) month period.

### **Bid Procedures:**

- A. **Requisitioning**-The requisitioning department must furnish detailed specifications to the County Judge's Office in the form of a requisition, along with the budget authorization and recommended sources of suppliers (vendors), if known by the user.

- B. **Bid/Proposal Form Preparation**-Upon court approval of the request based on fiscal year budget, completed and approved specifications, the requisitioning Department will finalize into a bid/proposal.
- C. **Advertisement and Notification**-The bid/proposal advertisement, prepared by the requisitioning Department stating a brief description of the item(s), where the documents, plan, or specifications may be examined, the time and place for prior to the opening. Bid/Proposal openings must be at least fourteen days from the date of the first publication. Bid/Proposal requests shall be furnished to known suppliers and to any supplier requesting an opportunity to respond.

## **SUBAWARDS/SUBRECIPIENTS**

(§2 CFR 200.332)

Th County and pass-through entity must:

(a) Verify that the subrecipient is not excluded or disqualified in accordance with [§180.300](#). Verification methods are provided in [§180.300](#), which include confirming in *SAM.gov* that a potential subrecipient is not suspended, debarred, or otherwise excluded from receiving Federal funds.

(b) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information provided below. A pass-through entity must provide the best available information when some of the information below is unavailable. A pass-through entity must provide the unavailable information when it is obtained. Required information includes:

(1) Federal award identification.

(a) Subrecipient's name (must match the name associated with its unique entity identifier);

(b) Subrecipient's unique entity identifier;

(c) Federal Award Identification Number (FAIN);

(d) Federal Award Date;

(e) Subaward Period of Performance Start and End Date;

(f) Subaward Budget Period Start and End Date;

(g) Amount of Federal Funds Obligated in the subaward;

(h) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity, including the current financial obligation;

- (i) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
  - (j) Federal award project description, as required by the Federal Funding Accountability and Transparency Act (FFATA);
  - (k) Name of the Federal agency, pass-through entity, and contact information for awarding official of the pass-through entity;
  - (l) Assistance Listings title and number; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at the time of disbursement;
  - (m) Identification of whether the Federal award is for research and development; and
  - (n) Indirect cost rate for the Federal award (including if the de minimis rate is used in accordance with [§200.414](#)).
- (2) All requirements of the subaward, including requirements imposed by Federal statutes, regulations, and the terms and conditions of the Federal award;
- (3) Any additional requirements that the pass-through entity imposes on the subrecipient for the pass-through entity to meet its responsibilities under the Federal award. This includes information and certifications (see [§200.415](#)) required for submitting financial and performance reports that the pass-through entity must provide to the Federal agency;
- (4) Indirect cost rate:
- (i) An approved indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, a pass-through entity must determine the appropriate rate in collaboration with the subrecipient. The indirect cost rate may be either:
    - (A) An indirect cost rate negotiated between the pass-through entity and the subrecipient. These rates may be based on a prior negotiated rate between a different pass-through entity and the subrecipient, in which case the pass-through entity is not required to collect information justifying the rate but may elect to do so; or
  - (5) A requirement that the subrecipient permit the pass-through entity and auditors to access the subrecipient's records and financial statements for the pass-through entity to fulfill its monitoring requirements; and
  - (6) Appropriate terms and conditions concerning the closeout of the subaward.
- (c) Evaluate each subrecipient's fraud risk and risk of noncompliance with a subaward to determine the appropriate subrecipient monitoring described in [paragraph \(f\)](#) of this section. When evaluating a subrecipient's risk, a pass-through entity should consider the following:

- (1) The subrecipient's prior experience with the same or similar subawards;
  - (2) The results of previous audits. This includes considering whether or not the subrecipient receives a Single Audit in accordance with subpart F and the extent to which the same or similar subawards have been audited as a major program;
  - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
  - (4) The extent and results of any Federal agency monitoring (for example, if the subrecipient also receives Federal awards directly from the Federal agency).
- (d) If appropriate, consider implementing specific conditions in a subaward as described in [§200.208](#) and notify the Federal agency of the specific conditions.
- (e) Monitor the activities of a subrecipient as necessary to ensure that the subrecipient complies with Federal statutes, regulations, and the terms and conditions of the subaward. The pass-through entity is responsible for monitoring the overall performance of a subrecipient to ensure that the goals and objectives of the subaward are achieved. In monitoring a subrecipient, a pass-through entity must:
- (1) Review financial and performance reports.
  - (2) Ensure that the subrecipient takes corrective action on all significant developments that negatively affect the subaward. Significant developments include Single Audit findings related to the subaward, other audit findings, site visits, and written notifications from a subrecipient of adverse conditions which will impact their ability to meet the milestones or the objectives of a subaward. When significant developments negatively impact the subaward, a subrecipient must provide the pass-through entity with information on their plan for corrective action and any assistance needed to resolve the situation.
  - (3) Issue a management decision for audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by [§200.521](#).
  - (4) Resolve audit findings specifically related to the subaward. However, the pass-through entity is not responsible for resolving cross-cutting audit findings that apply to the subaward and other Federal awards or subawards. If a subrecipient has a current Single Audit report and has not been excluded from receiving Federal funding (meaning, has not been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant agency for audit or oversight agency for audit to perform audit follow-up and make management decisions related to cross-cutting audit findings in accordance with section [§200.513\(a\)\(4\)\(viii\)](#). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

(f) Depending upon the pass-through entity's assessment of the risk posed by the subrecipient (as described in paragraph (c) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- (1) Providing subrecipients with training and technical assistance on program-related matters;
- (2) Performing site visits to review the subrecipient's program operations; and
- (3) Arranging for agreed-upon-procedures engagements as described in [§200.425](#).

(g) Verify that a subrecipient is audited as required by [subpart F of this part](#).

(h) Consider whether the results of a subrecipient's audit, site visits, or other monitoring necessitate adjustments to the pass-through entity's records.

(i) Consider taking enforcement action against noncompliant subrecipients as described in [§200.339](#) and in program regulations.

### **INTERNAL CONTROLS**

The County will follow internal control guidelines by verifying that the recipient and subrecipient:

(a) Establish, document, and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient or subrecipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should align with the guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control-Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal award.

(c) Evaluate and monitor the recipient's or subrecipient's compliance with statutes, regulations, and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified.

(e) Take reasonable cybersecurity and other measures to safeguard information including protected personally identifiable information (PII) and other types of information. This also includes information the Federal agency or pass-through entity designates as sensitive or other information the recipient or subrecipient considers sensitive and is consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality. (§2CFR 200.303)

## EXEMPTIONS AND EMERGENCY PURCHASES

- (a) Goods and services can be exempt from competitive procurement process if the commissioners court orders the purchase exempt. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants. The following is a list of these circumstances:
1. In case of public calamity, to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county.
  2. An item necessary to preserve or protect the public health or safety of the residents of the county.
  3. An item necessary because of unforeseen damage to public property,
  4. A personal or professional service,
  5. Any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three-month period;
  6. Any land or right-of-way,
  7. Single Source vendor, including:
    - a. Items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
    - b. Films, manuscripts, or books,
    - c. Electric power, gas, water, and other utility services; and
    - d. Captive replacement parts or components for equipment
  8. An item of food,
  9. Personal property sold,
    - a. At an auction by a state licensed auctioneer;
    - b. At a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
    - c. By a political subdivision of this state, a state agency of this state, or an entity of the federal government.

10. Any work performed under a contract for community and economic development made by the county under Section 381.004.

11. Vehicle and equipment repair

(b) The renewal or extension of a lease or of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners Court by order grants the exemption and if:

1. The lease or agreement has gone through the competitive bidding procedure within the preceding year;
2. The renewal or extension does not exceed one year; and
3. The renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the Commissioners Court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, a record of all bids solicited and the vendors contacted. This record shall be kept with the purchase order for a period of at least one year or until audited by the county auditor.

If an "EMERGENCY" purchase order is needed, approval must be obtained first. ***Improper planning cannot be considered a true emergency. Care should be taken that emergency purchases do not result from improper planning.***

When an emergency situation exists, the County Judge's Office must be contacted to ensure compliance with the Purchasing Act. In a declaration of a local state of disaster, the County Judge would be the authority to approve purchases.

## QUOTATIONS

The purpose of this procedure is to provide guidance for the regulations that apply to purchase of supplies, material, and equipment required or used, and contract for all services that are not required by law to be bid.

The general practice of the county shall be to accept the *lowest responsible best value* bid or price

quotation as specified and on *equal* product standards.

If the County receives two or more quotes or bids from responsible bidders that are identical in amount, as the lowest and best bid, the County shall select only one bidder by casting lots.

*These regulations and procedures apply to all purchases less than \$100,000.00.*

From \$10,000.00 to \$99,999.99 – If the County is purchasing goods or services costing at least \$10,000.00 but less than \$99,999.99, the requesting Department Head or staff member must:

1. Obtain at least three price quotations from different vendor sources, by fax, internet, or telephone, before selecting a vendor and make a written memorandum of the vendors solicited and prices offered; and,
2. Select the vendor who makes the best offer taking into account not only price but also the urgency of the departmental need and the speed of delivery and the quality of the goods and services offered; and,
3. Procure these goods and services from the vendor who provides the quality, cost and delivery schedule most consistent with the best interest of the County.
4. If the quality and delivery terms meet County needs, the vendor who provides the lowest price will be selected. If the vendor offering the lowest price is not used, a notation should be made to indicate the reason another vendor was selected.

*Items 1-4 above are subject to audit and all quotes should be written down and the documentation kept by the requesting Department. Written quotations from at least (3) different vendors must be sent to the County Auditor's Office attached with the Purchase Order for retention or otherwise be rejected if proper documentation is not attached.*

## **PURCHASE AUTHORIZATION**

Each department must furnish the County Judge's Office with a list, if other than the elected or appointed official, of employees authorized to sign a requisition for purchase. It is the department's responsibility to ensure that all authorized personnel have read and understand the policies and procedures of this manual.

## **THE PURCHASE ORDER PROCESS**

Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized. The requesting department's purchase requisition authorizes the County of Starr to enter into a contract with a vendor to purchase goods or services.

Purchase requisitions should fully describe to the purchasing office what to buy, when it is required, and where the goods are to be delivered or the services to be performed. The requesting Department(s) should contact the County Judge's Office to ensure budget funds are encumbered

first and then proceed with the purchase of the requested goods and services.

A requisition must be submitted to the County Judge's Office for any supplies, parts, repairs or other purchases to be made. The County Auditor's Office will review and approve all requisitions for budgetary compliance before issuing a purchase order. The issuance of a purchase order will encumber available funds and provide budgetary control.

Items that are currently not bid items are subject to the procurement of three price quotes prior to the issuance of a purchase order. (*See quotations section*)

All Starr County purchases must be authorized by the County Auditor's Office with a purchase order number prior to any vendor order. Any purchase not following this procedure may be considered void and returned to the vendor.

## **DEBARMENT**

Prior to procuring or entering into contract(s) for any goods/services, the requesting Department Director responsible for the program under which the procurement or contracting is being made, will check the debarment status of the vendor using the System for Awards Management site, [www.sam.gov](http://www.sam.gov) and document verification has occurred.

This policy applies to the procurement of all goods or service(s) regardless of unit price or quantity and applies regardless of tier level only to grant funds in accordance with 44 Code of Federal Regulations (CFR), Part 13.35, Sub-awards to Debarred and Suspended Parties.

Furthermore, because vendors are being removed and new ones added daily, Starr County will verify the vendor before issuing a new purchase order, recurring purchase order, contract or single time purchase.

If verification has been performed prior to entering into multiple invoices or multiple billing period contracts, such as a yearly wireless subscription, then verification is not required prior to making each payment to the vendor. However, verification should be performed prior to extending, renegotiating a follow-on contract, or entering into a new contract.

### Procedure for Documentation

Before any grant funds may be spent:

1. The requesting Department Director, or his/her designee, will access the System for Awards Management web site ([www.sam.gov](http://www.sam.gov));
2. A search will be made for the vendor on the site;
3. If the vendor is found not be debarred, a copy of the screen print indicating the vendor is not debarred at the time of procurement should be included with the documentation for that purchase and retained with the procurement records for audit and monitoring purposes;

4. If the vendor is found to be debarred, Starr County will not conduct business this vendor.

## **STARR COUNTY LEASE POLICY**

It is the policy of Starr County to consider lease options for capital assets (vehicles & large equipment) for the Starr County Sheriff's Department and/or the Starr County Road & Bridge Department only. Any departments requesting capital assets should obtain proper written quote(s) to attach to budget request documents to ensure proper funding of said request.

## **CREDIT CARD POLICY**

The purpose of this policy is to establish procedures for the use of County Credit Cards. This policy is being established in order to provide immediate access to goods and/or services and basic travel registration. All Credit Card purchases shall adhere to all purchasing statutes, rules, policies and procedures when using the card. The use of a credit card does not automatically exempt a governmental agency or its officers or its employees from any purchasing requirements of state law.

- The Credit Card is provided and utilized to make basic travel registration, and small or spot purchases of business-related goods and services.
- All Credit Card purchases must follow Starr County's Procurement Policies and appropriate encumbrances must be made prior to the utilization of any credit card purchases to ensure adequate funds are available.
- All Starr County Credit Cards shall remain in the safe and checked out as needed or issued to departments by the Starr County Auditor or its designee.
- Starr County Credit purchases should be made only when there are specific situations of need and/or the vendor does not direct bill.

### **Unauthorized Credit Card Use**

Starr County Departments may not use a credit card and may not reimburse and officer or employee for use of said credit card for the following:

- A purchase of a personal nature or any other purchase not connected with county business.
- A cash advance.
- Charges for entertainment.

- Purchases made in attempt to bypass the normal purchasing policy.
- A purchase that violates any provision of state law or Starr County's Procurement Policies and Procedures.

Under “**NO**” circumstances should an authorized credit card user allow another person to use the county credit cards either by physically having the card in their possession or by giving a card number to another individual or vendor so as to allow someone other than the designated cardholder to use the card.

Any person(s) who makes unauthorized purchases, carelessly uses the card, or fails to turn in the appropriate documentation in a timely manner, will be liable for the total dollar amount of such unauthorized purchases, plus any administrative fee charged by the bank in connection with misuse.

### **Responsibilities**

- Ensure sales tax is not charged at time of purchase.
- Ensure appropriate encumbrances are made with the issuance of a purchase order prior to the utilization of any credit card purchases.
- When a charge is made, documentation shall be retained as proof of purchase.
- Hotel rooms will NOT be charged on the Credit Card; they will only be reserved. It is the responsibility of the department to request a check from the County Auditor for the amount of the hotel room, prior to travel.
- If a county employee requests a designee to reserve a hotel room, airline ticket, or rental car; **it is the responsibility of said employee to cancel reservations in the event the trip is cancelled or they are unable to attend.**
- Personal charges on hotel bills should be paid for at checkout time by the employee and not charged to the county credit card.

### **Payment**

At the end of each billing cycle, all statements shall be mailed directly to the County Auditor's Office. All departments having used a credit card shall submit all purchase orders with accompanying receipts to the County Auditor's Office for processing.

## **INVENTORY & DISPOSITION**

On July 1, of each year, each subdivision, officer, and employee of the County shall file with the County Auditor an inventory of all the property on hand and belonging to the county.

**§ 263.152. Disposition: The Commissioners Court of a county may:**

(1) Periodically sell the county's surplus or salvage property by **competitive bid or auction**, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the county that is selling the surplus or salvage property;

When property is determined to be surplus/salvage, is no longer needed, is in unusable or unsafe condition, it shall be disposed of as outlined below.

Items purchased by Federal Funds or Grant Funds shall be handled in accordance with their respective regulations.

The originating department must follow the following procedure:

- A. Originator must complete a Starr County Disposal Inventory Form and send original form to the County Auditor's Office for processing.
- B. Purchasing Agent or designee will inspect the property and will make a determination on the nature of the surplus property.
- C. On the recommendation of the Purchasing Agency, the Commissioners Court, by approval, may declare the property surplus and no longer needed by the county and authorize disposal of the property.
- D. Disposal will be as follows:
  1. Inventory tags will be removed (by purchasing prior to auction) and a list will be given to the County Auditor.
  2. Property will be turned over to an approved auctioneer. The auctioneer will be responsible for following established State of Texas law for the advertisement, soliciting and bidding of property.
  3. Auctioneer will auction the property after publication, as per law.
- E. All sales will be handled by the giving of a check or cashier's check. All proceeds will be given to the County and deposited in the account of where the asset was originally purchased giving and receiving of receipts thereof.
- F. Trade-Ins, items that are beyond repair, no longer of use, or surplus may be traded-in on more useful like items, with approval of Commissioners Court.
  1. Originator must complete a Starr County Disposal Inventory Form and send the original form to the County Auditor's Office for processing.
  2. Commissioner's Court must authorize the trade-in, prior to trade-in.

3. In all cases where property is declared surplus, property shall be removed from County Inventory by the purchasing Department. *Since title to all personal property is vested to Starr County, no property may be sold, traded, or disposed of without commissioner's court action, with the following exceptions:*
  - a. Scrap building materials,
  - b. Parts of equipment that cannot be used or identified. In such cases, the Purchasing Agent shall inspect the personal property and declare them scrap, making a written notation for the record of the nature of the item(s), the reason for scraping, and the date of disposal. Such records shall be kept as outlined by the Local Schedule GR 4<sup>th</sup> Edition.

### **Relocation of Furniture and Equipment**

The moving of county inventory must be coordinated with the County Judge's Office. Each department must complete a Starr County Disposal Inventory Form and submit the original form to the County Judge's and County Auditor's Office for processing. The County Judge's Office will review the items requested to be re-located and will verify a time and date for said items to be moved.

The County Judge's Office is not responsible for assembly or the disassembly of furniture, equipment, etc. All items must be cleared away from the property to be moved.

All requests to move computer equipment and/or peripherals must be approved by the County Judge's Office and coordinated by the IT Department.

### **Equipment Purchased through Federal Awards**

Equipment that is acquired in part or its entirety under a federal award, the recipient or subrecipient must manage equipment (including replacement equipment) utilizing procedures that meet the following requirements:

- (1) Property records must include:
  - a. Description of the property,
  - b. Serial number or another identification number,
  - c. Source of funding for the property (including the FAIN),
  - d. Title holder,
  - e. Acquisition date,
  - f. Cost of the property,
  - g. Percentage of the Federal agency contribution towards the original purchase,
  - h. Location of the property,
  - i. Use and condition of the property,
  - j. Disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be conducted, and the results must be reconciled with the property records at least once every two years.

(3) A control system must be in place to ensure safeguards for preventing property loss, damage, or theft. Any loss, damage, or theft of equipment must be investigated. The recipient or subrecipient must notify the Federal agency or pass-through entity of any loss, damage, or theft of equipment that will have an impact on the program.

(4) Regular maintenance procedures must be in place to ensure the property is in proper working condition.

(5) If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be in place to ensure the highest possible return.

The recipient and subrecipient are responsible for maintaining and updating property records when there is a change in the status of the property.

**Disposition.** When equipment acquired under a federal award is no longer needed for the original project, program, or for other activities currently or previously supported by a federal agency, the recipient or subrecipient must request disposition instructions from the federal agency or pass-through entity if required by the terms and conditions of the federal award. (2CFR §200.213)

## VENDOR RELATIONS

It is Starr County's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in all of our dealings. At all times, applicable laws must be scrupulously observed. In this regard, the following should be observed when dealing with suppliers and/or their representatives:

- A. To accord prompt and courteous reception, as well as fair and equal treatment, to all suppliers and their representatives,
- B. Provide equal opportunity for all suppliers to offer price quotes and products,
- C. Guarantee the confidentiality of all price quotations made by vendors,
- D. Explain as clearly and fully as possible to suppliers the reason for any rejection of prices and/or quotes provided,
- E. Remain scrupulously free from obligations to any supplier,
- F. Keep informed about sources of supply, current methods, services, and material; encourage their testing of new product samples,

- G. If, for any reason, one vendor is permitted to re-quote, his competitors will be given the same opportunity. Re-quoting should be restricted to an absolute minimum.

## **CODE OF ETHICS**

### **Policy**

It is the policy of Starr County that the following ethical principles will govern the conduct of every employee involved directly or indirectly in the County procurement process.

### **Responsibility to County**

Employees will avoid any activities that would compromise or give the perception of compromising the best interest of Starr County. Employees will not use confidential proprietary information for actual or anticipated personal gain.

### **Conflict of Interest**

Employees will avoid any activity that would create a conflict between personal interests and the interest of Starr County. Conflicts exist in any relationship where an employee is not acting in the County's best interest and may be acting in their own best interests or the interests of someone associated with them.

Such conflicts of interest would include being involved in any procurement activity in which:

- The employee or any member of the employee's family has any financial interest pertaining to the Starr County procurement process;
- A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the Starr County procurement process; or
- Any other person, business, or organization with whom the employee or member of the employee's family is negotiating or has any arrangement concerning prospective employment.

If any such conflicts of interest exist, the employee will immediately notify the requesting Department's Director and/or the County Judge's Office in writing and will remove himself/herself from the Starr County procurement process.

### **Perception**

Employees will avoid any appearance of unethical or compromising practices in all relationships, actions, and communications.

### **Gratuities**

Employees will never solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual should disclose the transaction to the County Auditor for interpretation.

**Subcontractor(s)**

It shall be a breach for any payment, gratuity or offer of employment to be made on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Starr County, or any person associated therewith, as an inducement for the award of a subcontract to order.

**Confidential Information**

It shall be a breach of ethics for any employee or former employee of Starr County knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any person.