

HIDALGO COUNTY, TEXAS
ADMINISTRATIVE POLICY MANUAL

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PURCHASING POLICIES AND PROCEDURES

I. INTRODUCTION

1.01 The Purchasing Department of Hidalgo County, Texas (the "Purchasing Department" or "Purchasing") was created by the Hidalgo County Commissioners Court (the "Commissioners Court") on May 03, 1988, pursuant to the provisions of Texas Local Government Code §262.0115. As a result, the Commissioners Court has appointed a Purchasing Agent to coordinate the purchases made by Hidalgo County, Texas (the "County"). The Purchasing Agent serves at the pleasure of the Commissioners Court, and is authorized by statute to make all purchases not subject to competitive bidding requirements, supervise the competitive bidding process, and receive and deliver materials purchased in accordance with contracts awarded by bids. In addition, the Purchasing Agent is required by statute (Tex. Loc. Govt. Code §262.023) to adopt, to the extent practicable procedures calling for competitive bidding of all purchases of items not required to be competitively bid under the County Purchasing Act, Tex. Loc. Govt. Code, Ch. 262 Subch. C and other applicable statutes. Pursuant to the requirements established by the Commissioners Court and the Local Government Code, these Hidalgo County Purchasing Policies and Procedures are adopted by the Commissioners Court on this the 20th day of March 2018 to be effective for all purchases by the County, or any department or agency thereof, requested on or after August 08, 1995.

II. OBJECTIVE OF THE CENTRALIZED PURCHASING PROGRAM

- 2.01 A centralized purchasing program has been established in the County to achieve the objectives listed as follows:
- 2.01.01 To obtain goods and services at the best price possible.
 - 2.01.02 To obtain goods and services best suited to the particular needs of the County.
 - 2.01.03 To ensure the timely delivery and adequate availability of goods and services.
 - 2.01.04 To ensure that purchases conform to state law, County policies, the County budget and payment ability.
 - 2.01.05 To ensure that all responsible prospective providers of goods and services to the County are afforded an equal opportunity to compete for County contracts.
 - 2.01.06 To ensure that public spending is not used to enrich elected officials, department heads or government employees, or to confer favors on favored constituents, or to give the appearance of impropriety.

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III. PURCHASING CODE OF ETHICS

3.01 Statement of Purchasing Policy. Public employment is a public trust. It is the policy of the County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Purchasing Department.

To achieve the purpose of this Article, and these Policies, it is essential that those doing business with the County also observe the ethical standards prescribed here.

3.02 General Ethical Standards

- 3.02.01 It shall be a breach of ethics to attempt to realize personal gain through public Employment with the County by any conduct inconsistent with the proper discharge of the elected official's' department head's' or employee's duties.
- 3.02.02 It shall be a breach of ethics to attempt to influence any elected official, department head or public employee of the County to breach the standards or ethical conduct set forth in this code.
- 3.02.03 It shall be a breach of ethics for any elected official, department head or employee of the County to participate directly or indirectly in a procurement when the elected official, department head or employee knows that:
- a. The elected official, department head or employee or any member of the elected official's, department head's or employee's immediate family has a financial interest pertaining to the procurement.
 - b. a business or organization in which the elected official, department head or employee, or any member of the elected official's, department head's, or employee's immediate family, has a financial interest pertaining to the procurement;
 - c. any other person, business or organization with whom the elected official, department head, or employee or any member of the elected official's,

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department head's or employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

- 3.02.04 It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of the County.
- 3.02.05 It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County, or any person associated therewith, as an inducement for the award of a subcontract or order.
- 3.02.06 The prohibition against gratuities and kickbacks prescribed in subparagraph 4 and 5 above shall be conspicuously set forth in every contract and solicitation therefore.
- 3.02.07 It shall be a breach of ethics for any current or former elected official, department head or employee of the County knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipating gain of any person, entity or organization.

3.03 Construction with other provisions. The provision of this Purchasing Code of Ethics shall be in addition to the ethical provisions contained in any County personnel manual or Civil Service rules or policies. In the event of a conflict between the provisions of this Purchasing Code of Ethics and the provisions of such manuals, rules or policies, the more restrictive shall control. A violation of this Purchasing Code of Ethics by an employee of the County covered under the County's civil service system shall be punishable under the provisions of the governing rules and policies of such system.

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IV. DUTIES OF THE PURCHASING AGENT

4.01 Generally. The duties of the Purchasing Agent shall include purchasing or approving the purchase of all supplies, materials and equipment required or used and contracting for all repairs to property used by the County or any of its agencies, officers or employees, except purchases and contracts required by law to be made on competitive bid pursuant to Chapter 262, Texas Local Government Code. Except where expressly permitted herein, no person, other than the Purchasing Agent, may purchase supplies, materials or equipment or make contracts for repairs.

4.02 Supervise All Purchases. The Purchasing Agent shall supervise all purchases made by competitive bid and shall ensure that all purchased supplies, materials and equipment are delivered to the proper County officer or department in accordance with the purchase order to contract.

4.03 Inter-local Cooperation. The Purchasing Agent may cooperate with the purchasing agent or department of state of Texas and/or any local government unit to purchase any item in volume as may be necessary. Warrants or checks drawn by the County Auditor shall be honored by the County Treasurer to reimburse such purchasing agent or department making the purchase for the County.

4.04 Inter-Department Transfers. To prevent unnecessary purchases, the Purchasing Agent shall transfer County supplies, materials and equipment from any agency of the County, a County department, officer or employee of the County that are not needed or used to another County agency, County Department, officer or employee of the County requiring the supplies or materials or use of the equipment. The Purchasing Agent shall furnish to the County Auditor a list of transferred supplies, materials and equipment.

4.05 Disposal of Salvage Property. The Purchasing Agent, acting for the Commissioners Court and by delegation of the Commissioners Court, shall dispose of surplus or salvage property following the procedures required by state statute and as set out in the instructions accompanying form SLVG-PD-001. Form SLVG-PD-001 must be completed and necessary approval received for all surplus/salvage property dispositions.

4.06 Prepare Specifications. The Purchasing Agent, along with the person requesting the purchases of any item or items requiring competitive bids, pursuant to Chapter 262, Texas Local Government Code, shall prepare bid specifications which shall be approved by the Commissioners Court and advertised, received and awarded, in accordance with Chapter 262, Texas Local Government Code.

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V. REQUISITION PROCESS

5.01 Overview. Requisitioning is the process of formally requesting that a purchase be made. Counties are required by statute (Tex. Loc. Govt. Code §113.901) to use a requisitioning system. The purpose of the Requisition is to inform the Purchasing Department of what to buy, when it is required, and where to deliver it.

5.02 Procedures and Forms

5.02.01 All purchases of goods and services, shall be commenced by the requesting department completing an electronic requisition and submitting it to the Purchasing Department.

5.02.02 The electronic requisition should be completed well in advance of the date that the goods or services are required by the requesting department in order to allow the Purchasing Department and the vendor sufficient time to ensure that the goods are delivered or services performed by the date required by the requesting department.

5.02.03 The electronic requisition must be completed in its entirety. Incomplete requisitions will be returned to the requesting department and will delay the order and delivery of the requested goods and services.

VI. COMPETITIVE BIDDING

6.01. Bidding Required. Before any person, department, official or agent of the County may purchase one or more items under contract that requires an expenditure exceeding Fifteen Thousand dollars (\$15,000.00), the competitive bidding requirements prescribed by Chapter 262, Texas Local Government Code, must be utilized with the assistance of the Purchasing Agent. In applying the competitive proposals, all separate, sequential or component purchases (purchases made separately, purchases made over a period of time, or purchases of component parts of an item or items that in the normal purchasing practice would be purchased in purchase) are treated as if they are part of a single purchase and of a single contract. This requirement includes leases, installments payments and lease purchases in the event the total amount of payment will exceed Fifteen Thousand Dollars (\$15,000.00) over the life of the contract.

6.02. Exceptions. The only exceptions to the competitive bidding process outlined in this Article VI are set forth in section 262.024, Texas Local Government Code, and Article VIII herein. These exceptions shall be determined solely as provided in Article VIII.

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6.03. Specifications/Procedures

- 6.03.01 When the purchase of one or more items requiring competitive bidding pursuant to Chapter 262, Texas Local Government Code, and this Article 7, is required, the person desiring to purchase the item shall first submit written specifications to the Purchasing Agent. The Purchasing Agent shall, upon request, assist in developing the specifications.
- 6.03.02 No specifications shall be written, which by design exclude legitimate competition between vendors. Brand names and model numbers that may appear in the Specifications and/or Pricing/Delivery Information sheet are for reference only. It is not the intent of Hidalgo County to restrict these bids in such cases, but to establish a desired quality of level of merchandise or to meet a pre-established standard due to the existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with vendors. Hidalgo County shall act as the sole judge in determining equality and recommendation. Hidalgo County may require documentation demonstrating equal or superior products as compared to products required.
- 6.03.03 The requisition, along with the proposed specifications and a bidding timeline, are submitted to the Commissioners Court which shall approve the form and content of the specifications and determine when the bids will be opened and when results will be submitted to the Commissioners Court.
- 6.03.04 After approval of the specifications and bidding timeline, the Purchasing Department will proceed with advertising for bids in accordance with the Timeline and applicable provisions of the Local Government Code.
- 6.03.05 The Purchasing Agent may mail an Invitation to Bid form to potential vendors when, in the judgment of the Purchasing Agent, such Invitation to Bid would enhance the bidding process.
- 6.03.06 Alternative competitive proposals may be obtained on purchases of insurance and high-technology items (as defined by statute), and for items for which it is impractical to prepare detailed specifications. The procedure for this is prescribed in Sections 262.0295 and 262.030 of the Texas Local Government Code and may be utilized by the Purchasing Agent when approved by the Commissioners Court.

6.04 Selection of successful bidder

- 6.04.01 The Purchasing Agent shall present the bids to the Commissioners court at meeting of the Commissioners Court.

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- 6.04.02 In the event two (2) responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two (2) by drawing lots in a manner prescribed by the County Judge or reject all bids and publish a new notice.
- 6.04.03 No contract shall be awarded to a bidder who is not the lowest dollar bidder meeting the specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appeal before the Commissioners Court and present evidence concerning the lower bidder's responsibility.
- 6.04.04 In the event the Alternate Competitive Proposal Procedure or Alternative Multistep Competitive Proposal Procedure are utilized the lowest responsible bidder selection in accordance therewith may be determined through negotiation with parties submitting proposals.
- 6.04.05 In the event that information on costs of the repair, maintenance or repurchase of earth moving, material-handling, road maintenance or construction equipment is requested in a bid notice or specifications, such information can be considered by the Commissioners Court in selecting the most responsible bidder.
- 6.04.06 In considering the purchase of road construction materials, the location for pickup and delivery, and the cost to the County for hauling or delivering materials may be considered in selecting the most responsible bidder
- 6.04.07 Multiple contracts may be awarded for the purchase of road construction materials if more than one bidder submits the lowest and best bid or a particular type or location of material.
- 6.04.08 Prior to the selection of a successful bidder, The Purchasing Department shall confirm the submission of the required Debarment Form, and thereafter, consult and search the following website: www.sam.gov to verify debarment of the bidder(s) and retaining the printed information from the website with the project file/purchase order. Unless otherwise "waived as technicality" by CC pursuant to the legal notice contained in procurement packet.

6.05. Changes in Plan Specifications When there are changes in plan specifications or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the Commissioners Court may make those changes; provided, however, the total contract price may not be increased unless the cost of the change can be paid from available funds. If a change order involves an increase or decrease in cost of Fifty Thousand Dollars (\$50,000.00) or less, the Commissioners Court may grant general authority to an employee to approve the change

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order; provided, however, that the original contract price may not be increased by more than twenty-five percent (25%) unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted or rendered after the contract was made. The original contract price may not be decreased by eighteen percent (18%) or more without the consent of the contractor.

VII. NON-BID PURCHASES

7.01. Purchases Not Exceeding \$3,500.00

7.01.01 An authorized person shall complete a Form HCPD-01/Electronic Requisition: (Note: Purchasing Department encourages, recommends, and suggest the "better business practice" of soliciting pricing to achieve a "best value" results. In addition, users are under notice that a Requisition not exceeding the new \$3,500.00 limit needs to be inclusive of the entire goods or services required as a PO increase may not be eligible for consideration and/or approval.

7.01.02 The Requisition is processed in the normal manner and submitted to Purchasing.

7.01.03 Purchasing verifies the Requisition, approves same, and issues a PO to the most responsible vendor, as determined by the Purchasing Agent. If the approved quotation is not the lowest quotation, the reason must be stated in writing on the Requisition.

7.01.04 If the requisition is disapproved for any reason, the Requisition is returned to the user with a written reason for the disapproval.

7.01.05 The Purchasing Agent shall establish policies requiring the random verification or telephone or written quotations before authorizing a purchase.

7.02 Purchases Between \$3,500.01 and \$50,000.00 (Revision to the \$25,000.00 Statutory Bidding Limited was enacted to \$50,000.00 pursuant to the State of Texas' 81st Legislature-Regular Session, HB 987 (SB 624 identical), Texas Local Government Codes 262 (various clauses), 271 (various clauses), effective June 22, 2009.

7.02.01 An authorized person shall complete a Form HCPD-01 which shall include the listing of at least three (3) potential supplies, together with written, firm quotations from such suppliers. Vendors who are located throughout the County and state should be contacted. A record of all quotations shall be maintained. The list of vendors contacted should be rotated so that over time, all vendors are contacted approximately equally.

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- 7.02.02 The Requisition is processed in the normal manner and submitted to Purchasing.
- 7.02.03 Purchasing verifies the Requisition, approves same, and, after obtaining approval of the County Judge, issues a PO to the most responsible vendor, as determined by the Purchasing Agent. If the approved quotation is not the lowest quotation, the reason must be stated in writing on the Requisition.
- 7.02.04 If the Requisition is disapproved for any reason, the Requisition is returned to the User with a written reason for the disapproval.
- 7.02.05 The Purchasing Agent shall establish policies requiring the random verification of Written quotation, and may, whenever the Purchasing Agent deems appropriate, solicit additional written quotations before authorizing a purchase.

7.03 Information Contained in Quotes. For all oral or written quotations obtained, the following information must be exchanged between the vendor and the County;

- 7.03.01 Information related to the prospective vendor should include a description of the Item (or items), the quantity required (in standardized units, if applicable), the required delivery date, the last date quotations will be accepted, and the terms and conditions of purchase. The vendor shall be informed that the price quotations are required to be honored during the stated period.
- 7.03.02 Information obtained for the prospective vendor must include the name, address and telephone/telecopier numbers of the vendor, the total or unit price, as specified, the date through which the quoted price will be effective, the name of the representative providing the quote, and the specific (i.e....name brand and model number) product offered. For written quotations, this information must be included on the face of the written proposal.

7.04 Selection of Vendor. In selecting the most responsible vendor, the Purchasing Agent will consider such matters as price (all other factor being equal, the lowest price should always be taken), relative quality of goods and services (if more than one vendor can deliver at an acceptable price, the relative quality should be considered), reliability of vendor (based on actual, documented experience of purchasing agent, not on intuition or rumor), ability to service items purchased, other relevant factors as determined by the Purchasing Agent.

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VIII. EMERGENCY AND SOLE SOURCE PURCHASES, OTHER EXEMPT PURCHASES

8.01 Emergency Defined, Procedures.

8.01.01 Emergency (Priority One) purchases are governed by Tex. Loc. Govt. Code § 262.024(a) (1),(2), & (3) and are not utilized at all, except:

- a. In the case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the County
- b. To purchase an item necessary to preserve or protect the public health or safety of the residents of the County; or
- c. To purchase an item necessary because of unforeseen damage to public property.

8.01.02 The following procedures must be followed for Priority One purchases;

- a. Qualification. The purchase must qualify as an emergency purchase under the definition in Procedures 9.01.01, or Tex. Loc. Govt. Code § 262.024.
- b. Designation. The designation of Priority One indicates a situation of such urgency that the normal purchasing procedure must be modified in the interest of speed, and therefore no competitive bids or quotations are required.
- c. Normal Working Hours. All emergency purchases occurring during normal working hours are processed through the Purchasing Department as follows:
 - i. The using department will notify the purchasing office by telephone immediately, with as much information as possible about the emergency purchase required, so that the purchasing action can be initiated immediately.
 - ii. Simultaneously, a purchasing requisition is prepared and hand carried through the normal channels.
 - iii. The Purchasing Department or using department head contacts as many vendors as are necessary to arrange the emergency purchase. Otherwise, the purchase is completed by telephone, and the PO is completed after the fact and delivered to the vendor.

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- iv. The buyer requests expedited delivery, and if not available, the using department or Purchasing arranges to pick up the emergency purchase from the vendor.
- b. Evening, Weekends, and Holidays. For other than normal working hours, when purchasing support is unavailable, emergency purchases shall be processed as follows:
 - i. The responsible official of the using department takes whatever steps are necessary to procure needed supplies, services or equipment situation. If possible, only those goods or services needed during the evening, weekend or holiday are procured.
 - ii. On the first working day following the emergency, the responsible official prepares a requisition and hand-carries it to the purchasing office, as described Procedure 9.01.02(d)(ii) , above, attaching the invoices, bills of materials, receipts or other documents related to the purchase.
- c. Certification The official in charge of the using department must certify in writing on the next business day, or as soon thereafter as possible, that the purchase involved was necessary because of one of the reason listed in Procedure 9.01.01.
- d. Commissioners Court Approval If a competitive bid would normally have been required under Article VII hereof to accomplish the purchase, the Commissioners Court must, by order, accept the certification of the official and enter it into the minutes of the Commissioners Court at its next meeting, together with authorization of the exception from the requirements of Article VII.

8.02 Sole Source Defined, Procedures.

8.02.01 A purchase qualifies as "Sole Source" purchase when the item or service requested can only be obtained from one source, including;

- a. Item from which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
- b. Films, manuscripts or books;
- c. Electric power, gas or other utility services

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- d. Captive replacement parts or components for equipment.

8.02.02 Sole Source purchases are handled the same as other purchases, with these exceptions:

- a. If the requesting department determines that the item is a Sole Source item, a statement must be attached to the Form HCPD-01 stating that a sufficient number of vendors have been contacted to determine that only one practical source of supply exists. The Requisition is otherwise completed in the normal manner.
- b. If the Purchasing Department concurs that the item is a Sole Source purchase, a similar statement must also be attached to the requisition. If the Purchasing Department does not concur, the requisition is to be returned to the requesting department with an explanation of the reasons therefor.
- c. For Sole Source purchases in amounts which otherwise require competitive bidding under Article VII thereof, the Purchasing Agent shall tender to the Commissioners' Court a signed statement stating the reasons that the item is a Sole Source purchase. If the Commissioners' Court concurs that the item is Sole Source purchase, it shall, be order, enter the statement into its minutes, and grant an exception from the requirements of Article VII.
- d. Purchases of items described in Procedures 9.02.01(d) are hereby deemed Sole Source, and are exempted from the requirements of these procedures.
- e. After the requisition is approved, a PO is prepared.

8.03 Other Exempt Purchases. In addition to emergency and Sole Source purchases, the following purchases may be exempted from the procedures outlined in Article VII, and the procedures outlined in Article VIII, provided that, for purchases falling under Article VII, and order of the Commissioners Court is entered authorizing the exception, and for purchases falling under Article VIII, the Purchasing Agent approves the exception in writing;

8.03.01 A personal or professional service

8.03.02 Any work performed and paid for by the day, as the work progresses;

8.03.03 Any land or right-of-way (including a lease of land or a building, in accordance with Attorney General Opinion No. MW-535 (1982);

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- 8.03.04 Any item of food, provided however, that in lieu of competitive bidding for purchases over \$5,000.00, the procedures outlined in Procedure 8.03 are followed at intervals established by the Commissioners Court;
- 8.03.05 Personal Property sold at auction by state licensed auctioneer, at a going out of business sale conducted in accordance with Texas Business & Commerce Code Chapter 17, Subchapter F, or by a political subdivision of this state, or an entity of the federal government;
- 8.03.06 Any work performed under a contract for community and economic development made by a county under Tex. Loc. Govt. Code §381.004; or
- 8.03.07 The renewal or extension of a lease or of an equipment maintenance agreement if (1) the lease or agreement has gone through the competitive bidding or quote procedures within the preceding twelve (12) months, (b) the renewal or extension is the first renewal or extension of the lease or agreement.

IX. COOPERATIVE PURCHASING

9.01 State Cooperation. The requirements of Article VII and Article VIII may be satisfied by compliance with the procedures and requirements of Tex. Loc .Govt. Code § 271.081-271.083.

9.02 Local Cooperation. The County shall, whenever advantageous to do so, enter into cooperative purchasing arrangements with other local governments pursuant to the Interlocal Cooperation Act, Tex. Govt. Code Ch. 791. In the event such an arrangement is made, purchases thereunder shall be made in accordance with the more strict requirements of relevant statutes and purchasing policies. For example, the County is not required to address the issue of Historically Underutilized Businesses ("HUB"), but municipalities must do so in purchases over \$3,000.00; therefore, in a cooperation agreement with a municipality, purchases over such amount must follow state statutes governing the use of HUBs.

X. BONDS

10.01 May Be Required. The County may, and if mandated by statute, shall, require a bid bond, a performance bond and/or a payment bond, to the extent permitted by applicable state statutes, for any contracts, by including such requirement in the bid specifications or request for proposals. Any such bond so required shall be executed with a surety company authorized to do business in the State of Texas.

10.02 Bid Bond. If a contract is for the construction of public works or is a contract exceeding One Hundred Thousand Dollars (\$100,000.00) the bid specifications or request for

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proposals may require the bidder a good and sufficient bid bond in the amount of five percent (5%) of the total price.

10.03 Payment and Performance Bond-Permissive. In the event the contract exceeds Fifty Thousand Dollars (\$50,000.00), the County may require the successful bidder to furnish a payment bond and a performance bond to the County in the full amount of the contract within thirty (30) days after the date of signing of the contract or issuance of a Purchase Order following the acceptance of a bid or proposal, but in any event prior to the commencement of actual work.

10.04 Contracts Less than \$50,000.00 In the event the contract is for Fifty Thousand Dollars (\$50,000.00) or less, the County may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County.

10.05 Regulation Bidder-No Performance or Bid Bond. A bidder or proposal offerer whose rates are subject to regulations by a state agency may not be required to furnish a performance bond or a bid bond.

10.06. Performance and Payment Bond- Mandatory. If a contract is for the construction, alteration or repair of public buildings or public works, the bid specifications shall require a performance bond for a contract in excess of One Hundred Thousand Dollars (\$100,000.00) and shall require a payment bond for a contract in excess of Twenty-Five Thousand Dollars (\$25,000.00), as required by Tex. Govt. Code Ch. 2253.

XI. PROCUREMENTS SUBJECT TO FEDERAL FUNDING

11.01 Additional Standards. In addition to the procedures described above, which are incorporated herein by reference, the County shall abide by the following purchasing procedures applicable to procurements that are subject to federal funding as referenced in 2 C.F.R. 200: *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* (Uniform Guidance), which is hereby incorporated by reference.

11.02 Background. The United States Office of Management and Budget (OMB) issued the Uniform Guidance, which reforms rules applicable to entities receiving federal grant funding by streamlining and superseding eight OMB circulars (A-21, A-87, A-122, A-110, A-102, A-133, A-50 and A-89). The new procurement standards are found in Subpart D: Post Federal Award Requirements: 2 CFR §200.317 through §200.326 and became effective December 26, 2014. The OMB issued addenda to the Uniform Guidance, including its final addendum on May 17, 2017, indicating that non-Federal entities may postpone implementation of the new procurement standards and continue to comply with the procurement standards in previous OMB guidance (as reflected in § 200.104) for a total of three fiscal years after the Uniform Guidance goes into effect, and that the non-Federal entities internal

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procurement policies should document the same. The effective date of implementation will start for fiscal years beginning on or after December 26, 2017. As such, the County chose to delay implementation of the new procurement standards and followed the OMB's prior guidance during the allotted grace periods. The new procurement standards will apply to new and incrementally funded awards, and implementation will commence on January 1, 2018.

11.03 Compliance Requirements – Procurement. The following is an overview of the procurement standards and procedures applicable when procuring property and services under a Federal award in accordance with 2 CFR §200.317 through §200.326, which are hereby incorporated by reference.

11.03.01 The County, as a non-Federal entity other than State, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions. [See §200.317].

11.03.02 Procurement Procedures: The County will use its own documented procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal statutes and the procurement requirements identified in 2 CFR part 200. [See §200.318(a)].

11.03.03 Conflicts of Interest/Standards of Conduct: The County will 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. In addition to the following, the County incorporates standards referenced above and Standards of Conduct in applicable County Personnel Manuals. [See §200.318(c)].

a. 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. [See §200.318(c)(1)].

b. Officers, employees, and agents of the County 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. [See §200.318(c)(1)].

c. If the County has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the County will 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 County is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

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d. The County will disclose any potential conflicts of interest in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy. [See 2 CFR §200.112]. Additionally, the County will disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Further, if applicable, the County will make post-award reports as provided by Appendix XII to Part 200. Failure to make a required disclosure may result in any number of significant remedies, including suspension or debarment. [See 2 CFR §§200.113 & 200.338].

e. Violations of this policy may result in disciplinary action consistent with County disciplinary policy, including but not limited to dismissal. Further, violations may be referred to the appropriate law enforcement agency for investigation and possible prosecution.

11.03.04 Oversight: Once the Contract is awarded, oversight must be maintained to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. [See §200.318(b)].

11.03.05 All proposed procurement actions shall be reviewed to avoid the purchase of unnecessary or duplicative items. Where applicable, consideration will 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. [See §200.318(d)]

11.03.06 The County may enter into state and local intergovernmental agreements or interentity agreements where appropriate for procurement or use of common or shared goods and services. [See §200.318(e)]

11.03.07 Federal excess and surplus property may be used in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. [See §200.318(f)]

11.03.08 Construction project contracts of sufficient size may use value engineering clauses, as defined in §200.318(g) to offer reasonable opportunities for cost reductions.

11.03.09 Contracts should be awarded 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, as well as whether the contractor is suspended or debarred from receiving federal funds. [See §200.318(h)].

11.03.10 The County will maintain records sufficient to detail the history of procurement in accordance with §200.318(i).

11.03.11 The County, in accordance with provisions set forth in §200.318(j), 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.

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11.03.12 The County alone shall 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 pursuant to provisions set forth in §200.318(k).

11.04 Competition. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §200.319.

11.04.01 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 will 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. §200.319(a)

11.04.02 Geographical Limitation: Unless specifically excepted as provided in §200.319(b), the County will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals.

11.04.03 Procedure Requirements: In accordance with the provisions indicated in §200.319(c), the County's written procedures for procurement transactions shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured and include all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

11.04.04 All prequalified lists of persons, firms, or products which are used in acquiring goods and services shall be kept current and include enough qualified sources to ensure maximum open and free competition, and potential bidders will not be precluded from qualifying during the solicitation period. [See §200.319(d)].

11.05 Methods of Procurement with Federal Funds. The County will use one of the following five procurement methods as discussed in 2 CFR §200.320 when making purchases with federal funds. Should State or local procurement requirements applicable to a purchase being made with federal funds be more restrictive than Federal requirements, the more restrictive requirements or methods will be followed. The type of procurement process to use will depend on the cost and type of services or item(s) being purchased:

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- Micro-purchase
- Small purchase procedures
- Sealed bids
- Competitive proposals
- Noncompetitive proposals (sole source)

11.06 Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms. The County takes all necessary affirmative steps as described in §200.321 to assure minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

11.07 Procurement of Recovered Materials. If applicable, (this provision applies to a non-Federal entity that is a state agency or an agency of a political subdivision and its contractors) the County and its contractors will comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. [See §200.322].

11.08 Contract Cost and Price. The County will abide by the provisions of §200.323 including, but not limited to performing a cost or price analysis and negotiating profit as discussed therein.

11.09 Federal Awarding Agency or Pass-Through Entity Review. In accordance with §200.324, the County will make available upon request from the Federal awarding agency or pass-through entity: (a) 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, (b) procurement documents, such as requests for proposal or invitations for bids, or independent cost estimates, for pre-procurement review, under the circumstances listed therein. Additionally, §200.326(c) provides an exemption to the pre-procurement review if it is determined that the procurement systems comply with the standards of this part. To this end, the County may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether the system meets federal standards in order for the system to be certified; or the County may also self-certify its procurement system in accordance with the provisions in §200.324(c), which does not preclude Federal awarding agency or pass-through entity right to survey the system.

11.10 Contract Provisions. Pursuant to §200.326 the County will include in all federally-funded contracts, the applicable provisions described in Appendix II to 2 CFR Part 200 – Contract Provisions for non-Federal Entity Contracts under Federal Awards.