



Walker County

Purchasing Policy and Procedures Manual

Adopted February 2017, Rev June 2018, Rev January 2022

Charlsa Dearwester, CTPM
Purchasing Agent
1301 Sam Houston Ave, Suite 235
Huntsville, Texas 77342
purchasing@co.walker.tx.us

We, the undersigned, members of the Purchasing Board for Walker County, Texas, hereby approve the attached Purchasing Policy and Procedures Manual, submitted by the Walker County Purchasing Agent, pursuant to Texas Local Government Code Section 262.



Honorable Judge David Moorman
12th District Court



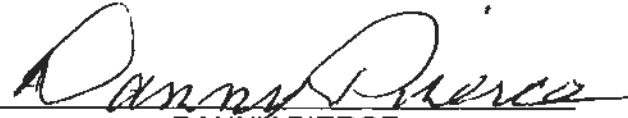
Honorable Judge Hal R. Ridley
278th District Court





Honorable Judge Danny Pierce
County Judge

PROCEDURAL CHANGE
ACCEPTED BY THE WALKER COUNTY COMMISSIONERS' COURT ON

January 31, 2022


DANNY PIERCE
County Judge


Danny Kuykendall
Commissioner, Precinct 1


Ronnie White
Commissioner, Precinct 2


Bill Daugette
Commissioner, Precinct 3

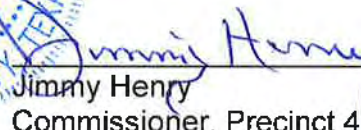

Jimmy Henry
Commissioner, Precinct 4

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Chapter 1: Introduction

Background

This manual provides the methods of procurement for the duties and responsibilities of the purchasing agent and county departments. The information included will allow the departments to make decisions necessary to request the purchase of goods and services needed to perform the functions of their departments effectively.

Mission

The mission of the Walker County Purchasing Department is to:

- Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to county purchasing;
- Ensure compliance with policies adopted by Commissioners Court;
- Provide equal access to all vendors participating through competitive acquisition of goods and services;
- Conduct the procurement process in a manner that promotes and fosters public confidence in the integrity of the County procurement policies and procedures; and
- Protect the interests of Walker County taxpayers without regard to any undue influence or political pressures.

Goals of County Purchasing

County purchasing has several goals including but not limited to:

- Adhere to statutory requirements and purchasing policy;
- Purchasing necessary goods and services;
- Obtaining the best possible price for the goods or services without sacrificing the quality needed;
- Ensuring goods and services are available where and when needed and there is a continuing supply available; and
- Guarding against the misappropriation of assets that have been acquired through the procurement process.

County purchasing must also ensure:

- Responsible bidders are given a fair opportunity to compete for the County's business. This can be accomplished by adhering to statutory requirements and by the County's purchasing policies and procedures;
- County funds are safeguarded by insuring that the best value is received for the public dollar; and
- County spending is not used to enrich elected officials or County employees, or to confer favors. To accomplish this, it is necessary to adopt and implement a code of ethics and train County employees to ensure they are aware of their responsibilities in the purchasing area.

Centralized Purchasing

Walker County Commissioners Court has adopted a centralized purchasing structure that provides many benefits:

- It allows for the consolidation of smaller purchases by individual departments into larger volume purchases for the entire county, resulting in lower unit prices and savings;
- Vendors and the business community have a single, central link to the county procurement process to facilitate consistent communication and understanding;
- Purchasing Department personnel accumulate a solid foundation of knowledge and experience about purchasing, marketing trends, prices, and vendors. This expertise assists users to define their needs in order to better save the county money and promotes a more efficient procurement process; and
- Centralized expertise puts the purchasing processes on a professional footing and inspires public confidence in the actions of the County.

Additional Responsibilities

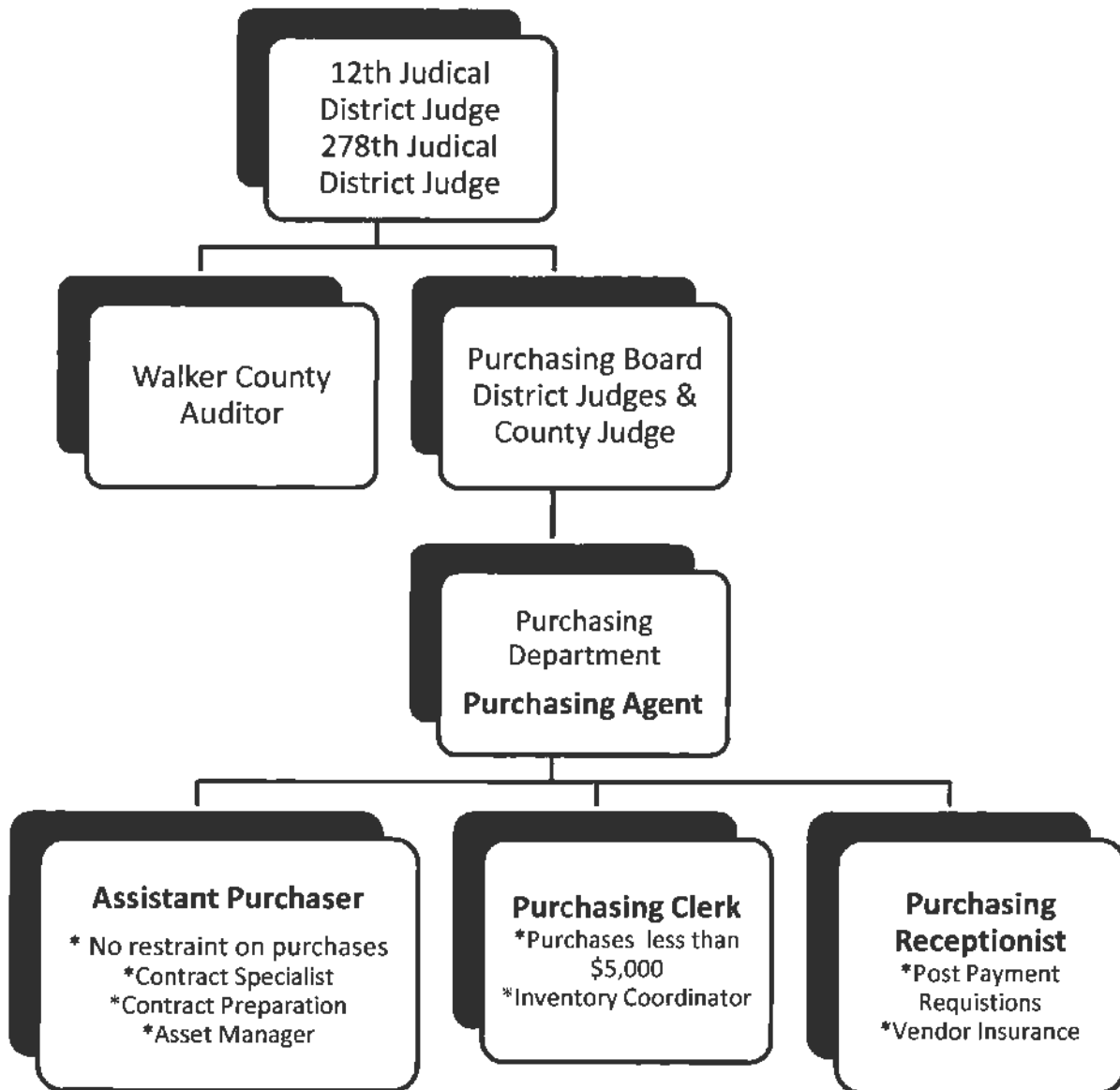
In addition to the above, the Purchasing Department encourages and supports compliance with Texas purchasing laws;

- Works in conjunction with the County officials in the development of efficient financial processes;
- Promotes local business participation in County procurement processes;
- Provides the business community with a central link to County business;
- Proposes and administers Interlocal Purchasing Agreements and Cooperative Purchasing Agreements;
- Develops, implements, and manages a Fixed Asset Management System;
- Conducts annual inventory of all property;
- Oversees and conducts Auctions of Surplus and Salvaged Property;
- Disposes of Seized and Abandoned Property; and
- Oversees and administers risk management procedures concerning property and equipment.

The Purchasing Department is committed to promoting effective, professional, and consistent procurement in Walker County, as well as championing the public perception that tax dollars are wisely spent. This purchasing manual is not static. Purchasing policies and procedures in Walker County will change as needed, evolving to incorporate technological advances and changes mandated by legislation. The organization chart of the Purchasing Department is attached as Exhibit 1.

There are many terms that are used throughout this manual that pertain to purchasing activities. Definitions of key terms are found in Chapter 21.

Exhibit 1: Walker County Purchasing Organizational Chart



Purchasing Laws

The Texas Legislature has enacted purchasing laws. It is the policy of Walker County, acting through its duly appointed Purchasing Agent, to fully comply in all aspects with these laws as they are amended from time to time.

Commissioners Court Adopted Policies

Commissioners Court has adopted policies regulating expenditure of monies. It is the policy of Walker County, acting through its duly appointed Purchasing Agent, to fully comply in all aspects with these policies as they are amended from time to time.

Application

The Purchasing Act (TLGC, 262) applies to all departments, all district, county officials and employees. The Purchasing Agent must purchase or lease all goods and services. The Purchasing Agent must perform all purchasing for all officials, County departments.

Consequences of Non- Compliance

Making separate, sequential or component purchases to avoid the County Purchasing Act's requirement of competitive bidding, or otherwise violating the competitive bidding requirements of the County Purchasing Act, may constitute a class B misdemeanor. See TLGC, 262.034.

Effective Date

These policies and procedures are adopted by the County Purchasing Agent and approved by the Commissioners Court under the authority of the TLGC, 262, and supersedes any previous policies and procedures regarding purchasing.

Precedents and Interpretation

These policies and procedures shall become effective upon approval by the Commissioners Court

- These policies and procedures shall be construed liberally to accomplish their purpose;
- If there is any conflict between the policies and procedures and a State law, or a rule adopted under a State law, or policies adopted by Commissioners Court, the stricter provisions prevail;
- The masculine, feminine, and neutral genders shall be construed to include the other genders as required. The singular and plural shall be construed to include the other number as required;
- Headings and titles at the beginning of the various sections of these policies and procedures have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing these policies and procedures;
- If any provision of these policies and procedures or the application of them to any person or circumstances is held invalid, the validity of the remainder of these policies and procedures and the application of them to other persons and circumstances shall not be affected;
- In general, the Purchasing Agent interprets these policies and procedures but the Commissioners Court shall resolve any question about any interpretation of these policies and procedures; and

- Updates may be made to this policy and procedures manual with Commissioners' Court approval.

Chapter 2: Walker County Purchasing Code of Ethics

Policy

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

Responsibility of County

Employees shall avoid activities that compromise or give the perception of compromising the best interests of Walker County. Employees shall not knowingly use confidential proprietary information for actual or anticipated personal gain.

Conflict of Interest

Employees shall avoid any activity that would create a conflict between their personal interests and the interest of Walker County. Conflicts exist in any relationship where the County's best interest may be different from the employee's best interests or the best interest of someone associated with the employee. Conflicts of interest include an employee participating in any way in any procurement in which:

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

Perception

If conflicts of interest exist, the employee shall notify the Purchasing Agent in writing and remove him or herself from the County procurement process.

Gratuities

Employees shall avoid the appearance of unethical or compromising practices in relationships, actions, and communications associated with County procurement.

Employees shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential contractors that might influence or appear to influence a purchasing decision. Generally, goods or services with a value of \$50 or less in the aggregate from a vendor during a year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision. If anyone is in doubt about whether a specific transaction complies with this policy, the person should disclose the transaction to the Purchasing Agent for a determination of compliance.

Confidential Information

Employees shall keep the proprietary information of vendors confidential. Employees shall keep County procurement information obtained from a solicitation confidential until after contract award if the solicitation provides for it to be kept secret. The confidential memorandum is as follows:

- All information in the vendor's response is to be kept confidential;
- No discussion of the proposal is to occur with anyone outside of the proposal evaluation committee members with the exception of the designee's Department Head/Elected Official;
- Proposal responses are not to be reproduced and should be returned to the designated Purchasing Department staff after evaluation is completed;
- The Purchasing Department is the sole point of communication for any questions from vendors that arise during the evaluation. All questions and requests for information should be referred to the Purchasing Department. There should not be any discussions between evaluation committee members and vendors during the evaluation and award process; and
- Evaluation committee members must be familiar with and read the Walker County Purchasing Code of Ethics and agree to comply with its requirements including reporting any potential conflict of interest, undue influence from vendors, or attempted communications from vendors during the evaluation process.

Compliance with the requirements outlined in the Confidentiality Memorandum (Exhibit 2) is crucial. If proprietary information of any vendor is compromised during the procurement process, all proposals may be rejected.

Exhibit 2: Example Walker County confidentiality Memorandum



Purchasing Department

Charlsa Dearwester, CTPM, Purchasing Agent

1301 Sam Houston Ave, Suite 235 Huntsville, TX 77320

Phone: (936) 436-4943 Fax: (936) 295-1595

Email: purchasing@co.walker.tx.us

TO: Proposal Evaluation Team Member

FROM: Charlsa Dearwester, CTPM

DATE: January 1, 2022

SUBJECT: Request for Proposal (RFP) # C2360-22-001, Widgets

In accordance with the County Purchasing Act, this project was issued as a competitive proposal, and, therefore, all information contained in the responses is to be kept **CONFIDENTIAL** until an award is approved by Commissioners Court.

Until that time, and due to the confidential nature of these proposals, **no discussion of these proposals shall occur with anyone outside the Proposal Evaluation Committee members.** Proposal documents may not be reproduced for any reason and must be returned to (buyer's name) after the evaluation is complete.

Certain information about the proposal, such as vendor name, is public information but may only be released by the Purchasing Department. **Please refer all questions or requests for information to the buyer.**

Please note that if any information about these proposals is compromised, it may be cause for rejection of all proposals.

I understand the above information and instructions and agree to not reveal any content of any proposal to anyone outside the evaluation committee membership. I will not discuss the deliberations of the committee with anyone outside the evaluation committee. I will report any vendor contact concerning this evaluation process or any undue influence on my evaluation of proposals to the responsible buyer.

Additionally, I have read the attached "Walker County Purchasing Code of Ethics", extracted from the Walker County Purchasing Policy and Procedures Manual, and agree to conduct myself in accordance with that code of ethics.

Signature of Evaluation Committee Member

Date

Chapter 3: Purchasing Agent Authority and Responsibilities

Appointment

The Walker County District Judges have created a Purchasing Board to implement a centralized purchasing structure and have given the Purchasing Department that mission. The Purchasing Board, composed of two District Judges and the County Judge, appoints the Purchasing Agent for Walker County to a two-year term and approves the Purchasing Agent's salary.

Statutory Authority and Duties

TLGC, 262, B & C outlines the following duties for purchasing agents:

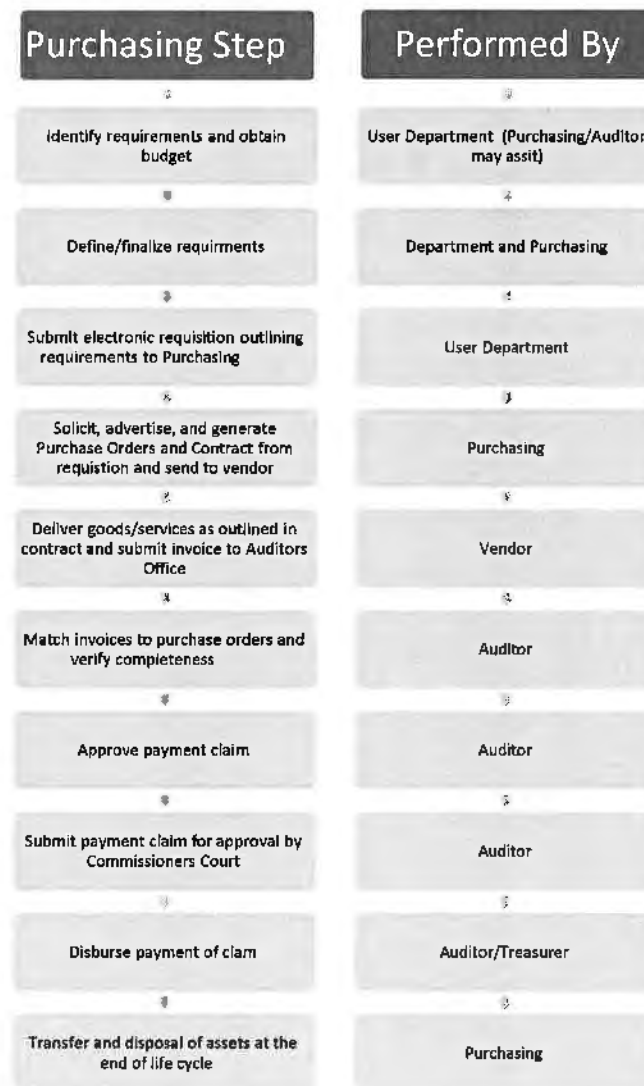
- The Purchasing Agent shall purchase all goods required or used, and contract for all repairs to property used by the County or a department or employee, except purchases and contracts required by law to be made on competitive bid. A person other than the Purchasing Agent may not purchase the goods or make the contract for repairs;
- The Purchasing Agent shall supervise all purchases made on competitive bid and shall see that all purchased goods are delivered to the proper department in accordance with the purchase contract;
- A purchase made by the Purchasing Agent shall be paid for by a warrant drawn by the Auditor on funds in the County treasury in the manner provided by law. The 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;
- On July 1 of each year, the Purchasing Agent shall file with the Auditor and each member of the Purchasing Board an inventory of all property on hand and belonging to the County and each subdivision, officer, and employee. The Auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory;
- Subject to Commissioners Court approval, to prevent unnecessary purchases, the Purchasing Agent shall recommend the transfer of County goods that are not needed or used, from one department or employee, to another department or employee requiring the goods or the use of the goods. The Purchasing Agent shall furnish the Auditor a list of transferred goods; and
- Subject to Commissioners Court approval, the Purchasing Agent shall adopt policies and procedures necessary for persons to use county purchasing cards to pay for county purchases. (Appendix 1).

Chapter 4: Purchasing Process, Roles and Responsibilities

Purchasing Process

The general purchasing process is outlined in Exhibit 3. It contains several stages with responsibilities that are often designated by statute.

Exhibit 3: Purchasing Process



User Do's and Don't's

Coordination among County departments is necessary for the process to work smoothly. To avoid delays and comply with County policy and state law, user departments should remember the following:

- Do not commit to acquire goods or services without an authorized purchase order. Anyone obligating an expenditure of funds for goods or services before securing a purchase order may be held personally responsible for the payment;
- Adhere to the County Purchasing Code of Ethics and avoid activities and behaviors that are unethical or create a conflict of interest or the perception of a conflict of interest;
- Ensure funding is available before submitting a requisition. The law does not allow expenditures that exceed budgets. Purchasing does not process requisitions for which there is not adequate funding;
- Plan purchases to minimize the use of emergency and expedited purchases. Rush purchases are generally more expensive and they delay other requisitions already in the system. Vendors may attempt to charge premium prices for goods and services when there is insufficient time allowed to explore alternative sources or option;
- Plan purchases to allow sufficient time to process purchase requests. The Purchasing Department is committed to processing all requisitions within a reasonable amount of time depending on the dollar threshold of the purchase; In general, departments should allow:
 - ❖ 1-3 business days for purchases under \$10,000, that are not being quoted for complete pricing.
 - ❖ 3-5 business days for purchases requiring verbal or written quotes, purchases between \$10,000.01 to \$20,000.00.
 - ❖ 10-12 business days for purchases requiring informal bids, purchases between to \$20,000.01 to \$49,999.99.
 - ❖ 4-6 weeks for purchases requiring formal bids, purchases exceeding \$50,000.00.
- Ensure that purchasing policies and procedures are understood before ordering. Departments must assure that all employees responsible for making department purchase requests ("purchasing liaisons") have read and understand the purchasing procedures in this manual. Departments should also ensure that liaisons attend any training provided by the Purchasing Department;
- Do not acquire goods or services without sufficient funds available in your departmental budget.
- Since the County does not have centralized receiving, each department is responsible for individually receiving goods and services. Departments should contact Purchasing if performance

issues such as shortages, late delivery, or damaged merchandise occur; and

- If the item received is a fixed asset that must be tracked and reported, departments should contact the Fixed Asset Manager in Purchasing to coordinate tagging.

Roles and Responsibilities

There are specific roles and responsibilities for both users and the Purchasing Department during the competitive procurement process. They protect the integrity of the process and provide fair and equal access to all vendors seeking to do business with Walker County. Exhibit 4 outlines the primary roles and responsibilities.

Exhibit 4: Purchasing Process Roles and Responsibilities

Requirements Definition/ Specification Development	<ol style="list-style-type: none"> 1. Identifies what is needed, when it is needed, the quantity needed and where it is needed and works with Purchasing Department to document need in writing a specification 2. Ensures funding (budget) is available to support need. 3. Sends specification and requisition with the funding to Purchasing Department. 4. Works with Purchasing Department to develop evaluation criteria/formats (as applicable). 	<ol style="list-style-type: none"> 1. Consults with User Department in development of specification and procurement process to be used. 2. Reviews specification to ensure that it is descriptive and specific but does not prevent competitive bidding of comparable goods. 3. Works with user department to develop evaluation criteria/format (as applicable) 4. Prepares agenda item for Commissioners Court (if applicable)
Solicitation	<ol style="list-style-type: none"> 1. Reviews solicitation documents before issuance to ensure department needs are met. 2. Provides Purchasing Department with a list of potential vendors that can meet the solicitation requirements. 3. Provides technical clarifications to Purchasing Department if vendor questions arise 4. Supports pre-solicitation conferences (as applicable) 	<ol style="list-style-type: none"> 1. Develops solicitation documents based on specification and sends to user department for review before final issuance. 2. Issues solicitation to vendors on the vendor list (and those identified by user department). 3. Advertises solicitation in accordance with State law. 4. Conducts pre-solicitation conferences (as applicable). 5. Provides answers or clarifications to vendors before solicitation closes. 6. Receives and logs vendor responses 7. Prepares responses for evaluation and sends to user department.
Evaluation and Negotiation (as applicable)	<ol style="list-style-type: none"> 1. Evaluators from Department sign confidentiality memorandum and send to Purchasing Department (as applicable). 2. Evaluates response based on established evaluation criteria and formats. 3. Completes evaluation and submits recommendation to Purchasing Department. 4. Works with Purchasing Department to develop negotiation strategy (as applicable). 5. Participates as member of negotiating team to negotiate Best and Final Offers (BAFOs) (as applicable). 	<ol style="list-style-type: none"> 1. Issues confidentiality memorandum to all evaluators before evaluation commences (as applicable). 2. Supervises evaluation process to ensure consistent and fair application of evaluation criteria. 3. Acts as point of contact for evaluator requests and communications to vendors for additional information. 4. Compiles individual evaluation results and works with users to develop recommendation for award and

	<ol style="list-style-type: none"> 6. Works with Purchasing Department to co-develop final recommendation for award. 7. Provides information to Purchasing Department (memorandum) to support contract award agenda item preparation and drafting. 	<p>prepares contract award agenda item for Commissioners Court or</p> <ol style="list-style-type: none"> 5. Works with user department to develop negotiation strategy (as applicable), 6. Leads negotiating team to negotiate BAFOs (if applicable). 7. Receives BAFOs and co-develops final recommendation for award (if applicable) and 8. Prepares contract award agenda request for Commissioners Court.
Contract Modifications	<ol style="list-style-type: none"> 1. Request modifications in writing to Purchasing Department 2. Reviews draft and final modification to ensure it meets department needs 	<ol style="list-style-type: none"> 1. Evaluates modification request and works with user department to develop modifications 2. Coordinates with vendor and user department to develop draft modifications 3. Works with Criminal District Attorney to review and finalize modifications 4. Obtains appropriate signatures (vendor, attorney, etc.) 5. Purchasing Agent approves modifications for purchase orders or develops Commissioners Court agenda item for approval on contracts depending on type and amount of modification
Contract Performance Monitoring	<ol style="list-style-type: none"> 1. Receives copy of contract and monitors vendor performance and delivery 2. Notifies Purchasing department of non-performance and provides written documentation outlining details of non-performance (dates, description of problem, etc.) 3. Works with Purchasing Department to develop acceptable corrective actions (as applicable) 	<ol style="list-style-type: none"> 1. Maintains complete contract file with supporting documentation during term of contract 2. Works with vendor to resolve performance issues as identified by user department 3. Develops corrective actions and timetables for completion to resolve performance issues and documents in contract file (as applicable) 4. Works with user department and Criminal District Attorney to terminate contract when necessary because of non-performance 5. Prepares contract termination agenda item for Commissioners Court action (if required)

Chapter 5: Other General Purchasing Policies

County Auditor Funds Verification

According to TLGC, 113.064 and 113.065, the County Auditor shall:

- Examine and approve each claim, bill and account against the county; and
- Audit and approve only those claims that have been incurred as provided by law, including the laws governing county budgeting and purchasing. Thus, a payment for a purchase that is not included in the county budget, must be approved by Commissioners Court.

IT Review of Data Processing Equipment

The Information and Technology Department (IT) reviews all purchase requests made by departments for software, hardware and other data processing equipment and provides a written assessment to the requesting department and Purchasing Department. This procedure is to ensure compatibility and standardization. IT may provide the Purchasing Agent with a list of the goods and services that have been pre-approved and need no additional review. To purchase any other data processing goods or services, the User department must obtain IT approval.

Sheriff's Review

For acquisition of security equipment and during the planning stages of security projects, the Sheriff's Department should be consulted.

Recycling Policy

Walker County supports the purchase of recycled materials, both in products that are reduced to raw material and remade into material that can be used for other purposes, as well as items that can be rebuilt or remanufactured and placed back into service for continuous use.

Risk Management Coverage

Loss or damage to County property should be coordinated through the Purchasing Agent.

- Vehicle accidents occurring during normal business hours M-F, 8-5, must be reported within 4 hours to the Purchasing Agent. After normal business hours the accident must be reported immediately on the next business day; and
- Vehicle accidents occurring within the city limits must have a police report; accidents occurring outside of the city limits require a Department of Public Safety or County Sheriff's Department report. Depending on location, either a city police, DPS, or Sheriff's Department report is required for insurance consideration. Within ten days of the accident, forward to the Purchasing Agent the following information:
 - ❖ Immediate drug test verification
 - ❖ Any Police, DPS or Sheriff's Department Reports
 - ❖ Any departmental incident reports with driver's statement
 - ❖ Photographs of vehicles and video of accident if available

Emergency Purchases

Emergency purchases are initiated to meet a critical, unforeseen need of the County. The County's ability to serve the public would be impaired if, purchases are not made immediately. Emergency purchases are exempt from standard purchasing procedures; TLGC, 262.024

Bonding Requirements

The Purchasing Agent, with the approval of the Commissioners Court, determines whether a bond of any sort is required.

Vendor Credit Cards

Purchase orders that require the use of their (Vendor) credit card will require the user department to sign the register in the Purchasing Department and pick-up the card and a tax exemption form (if required). A signed Credit Card Policy must be signed prior to the release of the card.

Purchasing Card Policy

The Walker County Commissioners Court approved the use of a Procurement Card program for small dollar purchases to increase efficiencies and expedite purchases and payment. A copy of the approved Policy and Procedures Manual is attached in Appendix 1.

Prepayments and Advance

Generally, prepayment is not authorized for any purchase of supplies, materials, equipment or services. Any exception or deviation from this policy must be approved by Commissioners Court or Governing Board

Reimbursements

Refer to Chapter 6: The Requisition Process to determine if a requisition is required. If a requisition is not required then choose from the following three options

- **Personal Reimbursement-** If you are requesting a personal reimbursement, you do not fill out the standard requisition form, instead use the Check Request/Requisition form found in Appendix 2. You will then attach the receipt and forward the form to the County Auditor Department. (Please note Sales Tax WILL NOT be reimbursed.)
- **Reimbursement of training/travel related costs-** see the Travel Policy in the Personnel Manual. Use the appropriate travel form for Non-Overnight Travel, Overnight Travel, or Mileage Reimbursement. Forward the completed form to the County Auditor Department.

Chapter 6: The Requisition Process

Definition:

Requisition: is the formal request for a purchase to be made. It outlines the specifications of the good(s) or services needed.

Purpose

The department's purchase requisition authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services. This automated form is for internal use and cannot be used by a department to order materials directly from a vendor.

Policy

Walker County uses an automated requisitioning system. Based on pre-established budget line items, the user department enters purchase requisitions into the financial software system. Adequate budget funds must be available in the departmental line items before the Purchasing Department can purchase the requested goods and services. Manual requisitions and purchase orders are not acceptable, unless the Purchasing Agent has approved the manual process in writing. All purchase orders require a requisition manually or electronically signed by a person authorized to approve a purchase in each department. The only exceptions to automated purchase orders are the requests of payment processed directly by the Auditor's Department for the following goods or services:

- Orders of the Court, Example: Attorney fees, commitment charges, payments to other counties for services, payment to detention facilities for residential services, expert witnesses, court reporters, jurors, or court related psychiatrists or psychologists (copy of order with signature of Judge is required)
- State and Federal governments and their agencies
- Bailiff Services
- Foster care payments for allowances
- Professional services, Example: on-going contracts, contract Engineer
- Name and similar searches, Example: Lexis Nexis, West Law
- Employee registrations for seminars/training (unless the entity requires a purchase order)
- Travel reimbursements, Example: expenditures, mileage, per diem
- Membership dues for Organizational Affiliates clearly related to job function
- Subscriptions for Organizational Affiliates clearly related to job function
- Intra/Inter Local contracts and payments to state agencies and other governments, quasi-governments, Volunteer Fire Departments
- Recurring payments required by statute, Example: Appraisal District
- Certain Service Contracts approved in the budget, Example: Animal Shelter, Tri-County
- Employee Benefits Payment Example: health insurance, retirement and other payments related to payroll
- Insurance payments

- Inmate charges, Example: Hospital, lab charges, doctors and other medical services (not supplies)
- All bonds to include notary
- Legal notices
- Postage
- Rental of post office boxes
- Refunds including tax, EMS and refunds from other fee offices and fees/payments
- Tax refunds and fees/payments to delinquent tax attorney
- Autopsy
- Transportation for autopsy or other funeral home charges
- Utilities
- Update services for books & periodicals
- Software maintenance
- Annual licenses & maintenance fees
- Pre-Employment Physical & Drug Screen testing
- Newspaper ads
- Estray services
- Vehicle Inspections
- Services provided per court approved contracts
- Telecommunications

Procedure

Purchase requisitions should fully describe what to purchase and where the goods/services are to be delivered/performed. After the Purchasing Department receives a purchase requisition, it determines the appropriate purchasing method based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services and other relevant factors. Specific instructions on entering purchase requisitions into the financial software system are not covered in this manual. The user department can contact the Purchasing Department for training.

Types of Purchase Requisitions

The Purchasing Department classifies purchase requisitions according to the type of action and the time required for the purchase. There are five types:

- **Contract Requisitions-** Normal purchases of items ordered from existing contracts.
- **Routine-** Normal purchases that are not under contract but under \$10,000.
- **Expedited-** Purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases generally do not qualify as emergency purchases and are subject to all applicable bidding requirements. Expedited purchase requisitions require 1 to 3 working days to process. Expedited purchases are **not** emergency purchases. They are goods or services needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal work routine. They should

not be used unless absolutely required. There are two types of expedited purchase requisitions:

- ❖ **Walk Through-** Purchases for goods or services needed within three business days to avoid work interruption, loss of service or significant added cost of operations. The user department should notify the Purchasing Department immediately after entering the purchase requisition into the financial software system.
- ❖ **Work Stoppage-** Purchases for goods or services needed immediately to prevent work stoppage due to unanticipated conditions. The user department should notify the Purchasing Department immediately upon entering the purchase requisition into the financial software system and should also provide written documentation of the existence of a work stoppage for the contract file (written comments in the requisition or email justification from Department Head or designee are acceptable documentation). The Purchasing Department instructs the user department on what action to take.
- **Emergency –** Purchase of any goods or services needed because of an emergency condition that the Commissioners Court has ordered exempt, in compliance with the Purchasing Act (TLGC, 262.024). All emergency exemption orders must be processed through the Purchasing Department. Emergency purchases with a total cost exceeding \$50,000 must be exempted from the requirements of the Purchasing Act by order of Commissioners Court. Emergency purchases with a total cost under \$10,000 are handled like an expedited purchase requisition. The user department should immediately contact the Purchasing Agent so that proper action can be initiated immediately.

Chapter 7: Purchase Orders

General Information

Requisitions will be converted to a purchase order after it has been processed and the Purchasing Department will print a copy for the department. Approval will be based on the request meeting the purchasing requirements outlined in this manual.

Types of Purchase Orders

Purchase orders will be one of three types:

- Standard purchase orders- specific to the item(s) listed on the purchase order;
- Open purchase orders- allows purchases of a general type to a specific vendor within specific dollar limits; Example: minor equipment repairs, parts house, and building supplies. This type of purchase order is encumbered in your budget and
- Blanket purchase orders- (sometime called a Purchase Agreement) which allows an unknown quantity of a specific product(s) to be purchased for a specific price for a specific time. Blanket purchase orders require a guaranteed price and a specific time period and are generally limited to a formal contractual or bid document. This type of purchase order is not encumbered and will not show against your budget until purchase has been paid for.

Procedure

Prior to issuing a purchase order, the Purchasing Agent shall ensure that the purchase is in compliance with state law, these policies and procedures, other policies concerning the expenditure of funds and budget adopted by Commissioners Court, and ensure that the purchase is in compliance with the current adopted budget and within remaining budgeted funds.

Distribution of Purchase Orders

- One copy of the purchase order is retained by the Purchasing Department.
- One copy to the Auditor's office
- One copy to the Department
- One copy to the vendor with the standard terms and conditions.

Freight

If the vendor charges freight, it will be entered as part of the purchase order. If the vendor does not charge freight when providing the quote, the Purchasing Department will indicate in F.O.B., DPA (destination prepaid and add) and the Auditor will pay this amount without requiring a change order.

Chapter 8: Thresholds for Purchases

If a requisition requires an expenditure of funds the Purchasing Department shall use the following guidelines:

- All purchases made by the County in excess of \$20,000.01 must have award approval by Commissioners' Court.
- Cooperative contracts (Co-Op's) may be used for purchases or alternative solicitations listed below. All contract numbers must be noted on the purchase order.
- All purchases requiring a requisition exceeding \$10,000 will be reviewed by the County Auditor prior to the conversion to a purchase order.
 - ❖ **\$0.00 TO \$10,000.00**
Verbal or written quotations may be solicited by the Purchasing Department and/or the department requesting the purchase if deemed necessary.
 - ❖ **\$10,000.01 TO \$20,000.00**
Written quotations will be solicited by the Purchasing Department and/or the department requesting the purchase. All quotations will be documented and/or attached to the requisition.
 - ❖ **\$20,000.01 TO \$49,999.99**
Solicitations will be conducted by the informal bid process.
 - ❖ **Purchases Exceeding \$50,000.00**
Solicitation will be conducted by the formal sealed bid process which is governed by statute (TLGC, 262.023).

Policy and procedures for Purchases under \$10,000

For purchases of goods and services totaling less than \$10,000, Verbal or written quotations may be solicited by the Purchasing Department and/or the department requesting the purchase if deemed necessary

Procedures

The user department submits a purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required. The Purchasing Agent is authorized to select the vendor and to perform all actions necessary to conclude a contract for the purchase of the goods and services. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Policy and procedures for Purchases \$10,000.01 TO \$20,000.00

For purchases of goods and services totaling \$10,000.01 TO \$20,000.00 Three (3) written quotations will be solicited by the Purchasing Department and/or the department requesting the purchase. All quotations will be documented and/or attached to the requisition.

Procedures

The user department submits a purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required. The Purchasing Department is authorized to select the vendor and to perform all actions necessary to conclude a

contract for the purchase of the goods and services. If the vendor offering the lowest price is not used, a notation is made in the quotation documentation to indicate the reason another vendor is selected. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Policy and procedures for Purchases \$20,000.01 TO \$49,999.99

For purchases of goods and services totaling \$20,000.01 TO \$49,999.99, solicitations will be conducted by the informal bid process or through a cooperative contract. All informal bid documents will be documented and/or attached to the requisition. If a cooperative contract is used the contract number will be on the requisition.

Procedures

The user department submits a purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required. Based on the information in the purchase requisition the Purchasing Department will prepare informal bid documents unless purchased through a cooperative contract. The Purchasing Department will make a recommendation to Commissioners Court for a selected vendor. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Policy and procedures for Purchases exceed \$50,000

For purchases of goods and services that exceed \$50,000, solicitations will be conducted by the formal bid process or through a cooperative contract. All formal bids will be documented. If a cooperative contract is used the contract number will be on the requisition.

Procedures

The user department submits a purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required. Based on the information in the purchase requisition the Purchasing Department will prepare formal bid documents unless purchased through a cooperative contract. The Purchasing Department will make a recommendation to Commissioners Court for a selected vendor. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Commodity Purchase Limits

Important: If cumulative purchases from a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required and an annual term contract is established. Cumulative purchases include countywide purchases, and are not limited to departmental requirements.
(e.g. fuel, tires, office supplies)

Violations and Penalties

Intentionally separating purchases or invoices to avoid the \$50,000 formal competitive bidding limit is a violation of the Purchasing Act

Vendor Contracts

Any contract that requires the signature of the Vendor must be reviewed by the Criminal District Attorney and approved by Commissioners Court.

Chapter 9: Specifications

Definition

A specification is a concise description of goods or services that user departments seek to buy, and the requirements the vendor must meet to be considered for the award. A specification may include requirements for testing, inspection, or preparing any goods or services for delivery, or preparing or installing them for use. The specification is the total description of the goods and services to be purchased.

Purpose

The primary purposes of any specification is to provide vendors with firm criteria about a minimum standard acceptable for goods or services by providing reasonable tests and inspections to determine their acceptability and to provide purchasing personnel with clear guidelines from which to purchase. As a result, the specification also:

- Promotes competitive bidding, and
- Provides a means to make an equitable award to the lowest and best bid from a responsible bidder.

Preparation

In writing specifications, user departments are encouraged to obtain an existing specification before starting to write a new one. The existing specification can provide ideas and examples that can be customized for Walker County purposes. The user department should contact the Purchasing Department for assistance in obtaining existing specifications to facilitate the specification development process. There are numerous sources for specifications. These include other governments, professional trade associations, professional purchasing associations and user knowledge. Some specification libraries that are available include:

- Texas Specification Library located at the Texas Building and Procurement Commission website: http://www.tbpc.state.tx.us/spec_lib/index.html
- General Services Administration, Federal Supply Service – Specifications Section found at www.qsa.gov
- Texas Department of Transportation Standard Specification Index located at http://www.dot.state.tx.us/gsd/purchasing/tssi_alpha.htm
- Texas County Purchasing Association. Contact Purchasing for assistance because this is available to members only.

The user department, occupant department, or an outside agency may propose specifications. To ensure compliance with legal purchasing requirements, the Purchasing Department has final acceptance of the specifications, except those for construction projects. This ensures proper quality control and avoids the proliferation of conflicting specifications in the different County Departments. The Purchasing Department may submit any purchases that were not approved in the budget process to Commissioners Court before specifications are prepared and advertised so the Commissioners Court may determine whether to transfer funds or amend the budget to make the purchase. To facilitate specification development and avoid duplication of their efforts, user departments should submit their specifications in electronic format to the Purchasing Department.

Characteristics

An effective specification has the following characteristics:

- **Simple:** Avoids unnecessary detail, but is complete enough to ensure that purchased goods and services satisfy their intended purpose.
- **Clear:** Uses terminology that is understandable to the user department and vendors. Eliminates confusion by using correct spelling and appropriate sentence structure. Avoids the use of jargon and “legalese”.
- **Accurate:** Uses units of measure that are compatible with industry standards, identifies all quantities, and describes packing requirements.
- **Competitive:** Identifies at least two commercially available brands, makes, or models (whenever possible) that satisfy the intended purpose. Avoids unneeded “extras” that could reduce or eliminate competition and increase costs.
- **Flexible:** Avoids situations that prevent the acceptance of a response that could offer greater performance for fewer dollars. Uses approximate values that are within a 10% range for the dimensions, weight, speed, etc. (whenever possible) if these values can satisfy the intended purpose.

Types

The Purchasing Department uses a number of specification types:

- **Design-** Details description of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom produced items and many services.
- **Performance-** Details required performance parameters such as required power, strength of material, test methods, standards of acceptability, and recommended practices. Performance specifications are usually used for capital equipment purchases.
- **Brand Name or Equal-** Lists goods or services by brand name, model, and other identifying specifics, except that products with performance equivalent to the characteristics of the named brand are specified as acceptable. Other manufacturers may provide a nearly identical product under another brand name. The Purchasing Department uses this method only if there is sound justification. The burden of justification rests with the user department.
- **Industry Standard-** States an industry standard that is identical, regardless of manufacturer that results in acquisition of goods of uniform quality. The UL standard for electrical products is an example of an industry standard.

Chapter 10: Competitively Solicited Purchases Exceeding \$50,000

Definition and use

There are two types of solicited purchases: 1.) competitive bidding and 2.) competitive proposals. Competitive bidding means letting available vendors compete with each other to provide goods or services (Exhibit 6). Texas courts define this concept as follows:

"Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items and services covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.—Dallas 1951, no writ).

Purpose of Competitive Bidding

Texas courts also state:

"The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best work and materials at the lowest practicable price for the best interest of the taxpayers and property owners." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.—Dallas 1951, no writ).

- The first purpose of competitive bidding is to ensure the best possible value is received. Competitive biddings also increase the likelihood that public monies are spent properly, legally, and for public projects only.
- The second purpose is to give those qualified and responsible vendors who desire to do business with the County a fair and equitable opportunity to do so.

Competitive Bidding

The term "Formal Competitive Bidding" used in this manual is generally used in County purchasing when the bidding process complies with TLGC, 262.023, which requires approval by the Commissioners Court. "Sealed" bids are solicited through an Invitation for Bid (IFB) for contracts expecting to exceed \$50,000. The IFB is the document used to solicit bids from vendors in response to the County's specifications and contractual terms and conditions. The Purchasing Department along with the Official or Department Head suggest award recommendations to the Commissioners Court. The awarded IFB with the Notice of Contract Award letter signed by the Purchasing Agent forms the contract between Walker County and the vendor. Competitive bids are not negotiated. With few exceptions, price is the sole determinant factor if the vendor's product or services.

Competitive proposals

The term “Formal Competitive Proposal” used in this manual is generally used in County purchasing when the solicitation process complies with TLGC, 262.030, which requires approval by the Commissioners Court. Competitive proposals are solicited through a sealed Request for Proposals (RFP) process. Vendors submit responses to the RFP for consideration. The RFP solicits proposals from vendors in response to the County's requirements and contractual terms and conditions. A formal contract, reviewed by the Criminal District Attorney's Office, must be approved by the Commissioners Court. While the competitive proposal (RFP) process is similar to the competitive bidding (IFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated procurement. Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors must be specified in the RFP and considered in recommending award. Also, the proposals are received, but are not opened publicly. Proposal contents are not disclosed until after the contract is awarded. Proposal contents that are trademarked or proprietary may remain confidential pursuant to the Texas Public Information Act (Chapter 552, Texas Government Code).

Procedures

In Walker County, competitive solicited procurements which call for approval by Commissioners Court due to expenditure in excess of \$50,000 is required to comply with this policy, with few exceptions, are accomplished by the following process. Throughout this chapter, “bids” are vendor responses in the IFB process and “proposals” are vendor responses in the RFP process. Unless specifically noted, the procedures apply to both the IFB and RFP.

Defining the Need

When the need for a good or service costing more than \$50,000 is identified, the user department should immediately contact the Purchasing Department for assistance in developing the specifications. The specification should be comprehensive and broadly defined to allow for maximum competition. The user department is responsible for submitting a Statement of Work (SOW) or Technical Requirements, which functionally defines its needs and requirements. Purchasing Department staff ensures that the SOW or Technical Requirement is quantified and structured to:

- Secure the best economic advantage utilizing best value;
- State the needs clearly;
- Be contractually sound;
- Be unbiased toward vendors;
- Encourage innovative solutions to the requirement described; and
- Permit free and open competition to the maximum extent reasonably possible.

Notice: Once the Purchasing Department has finalized the specification or requirements with the user department, the Purchasing Department prepares the solicitation for issuance and publishes a notice of the proposed purchase that complies with the requirements in TLGC, 262.025. According to TLGC, 262.025, notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the solicitation opening. If necessary, advertising time can be extended. The notice must include:

- The name and telephone number of the purchasing agent;
- The county website address;
- The specifications (requirements) describing the goods and services to be purchased, or a statement of where the specifications (requirements) may be obtained;
- The time and place for receiving and opening solicitations and the name and position of the employee to whom the solicitations are sent;
- Whether the vendor should use lump-sum or unit pricing;
- The type of bond required of the vendor; and
- The method of payment by the County.
- Type of Insurance

Special Considerations

- **IFB:** If unit pricing is required, the County must specify approximate quantities estimated on the best available information. The Purchasing Agent explains how the lowest price is calculated in the RFB.
- **RFP:**
 - ❖ The Purchasing Department publishes a notice of the proposed purchase unless Commissioners Court approval of the RFP is required.
 - ❖ The Commissioners Court must approve advertising for any RFP for which there is not adequate funding approved in the budget and for which Auditor has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.
 - ❖ If the RFP is for high technology goods and services, Information Technology must review it before it is advertised.
 - ❖ For all other purchases, the Commissioners Court delegates its authority to approve the requirements to the Purchasing Agent.

Amendment of Solicitation

The Commissioners Court authorizes the Purchasing Agent to extend the proposal opening date on the notice of a solicitation if an error is discovered, or the nature of the goods or services requires an extension. The Purchasing Agent may amend a solicitation:

- If inquiries about the meaning indicate the need for an amendment to clarify its original intent or to correct clerical errors;
- If the changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- If the amendment does not change the general scope.

There should be at least three days between the date of the amendment and the opening date in the notice. If there are less than three days, the opening date is extended to allow for a minimum of three days between the date of the amendment and the opening date in the amendment.

Pre-Bid (Proposal)

TLGC, 262.0256 allows counties to require potential vendors to attend a mandatory pre-bid (pre-proposal) conference to discuss contract requirements and answer vendor questions. The Purchasing Agent works with the user department to determine if a pre-bid (pre-proposal) conference is necessary and whether attendance is mandatory or optional. Purchasing staff manages any pre-bid (pre-proposal) conference and requests that the user department makes staff available to answer questions at the conference.

Receipt of Competitive Solicitations

To ensure the identification, security, and confidentiality of responses to solicitations, the following procedures are adhered to:

- The Purchasing Agent receives all responses as specified by the solicitation document.
- Solicitations are not received after the opening time on the day of response opening. Should a response arrive by mail after the specified time delivery will be refused. All responses received and not refused after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response was received after the due date and time.
- The Purchasing Department records the time and date the response was submitted.
- After a response is received, the Purchasing Department provides a secure place to hold it until the opening date. The responses are only received sealed and remain sealed until the Purchasing Department opens them in a public forum on the advertised date and time.

On occasion, responses that are received in the mail or by other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the response (especially the price for a bid) were not reviewed and the response is re-sealed by that employee of the Purchasing Department, and the incident is documented. The above process is undertaken to preclude any perception of favoritism, revealing prices or response information. Publicly receiving sealed responses and recording the submission of requested responses is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of solicitations.

Public Opening of Solicitations

- **IFB:** The Purchasing Agent publicly opens and documents the bids on the date, time, and place specified in the notice. Preliminary tabulations are provided to the public upon request
- **RFP:** The Purchasing Agent publicly opens and documents sealed proposals on the date, time, and place specified in the notice. Only the names of vendors submitting proposals are announced.
- Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information contained in them. Disclosure of all

information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality Memorandum

RFP: As fully described in Chapter 3 of this manual, the Purchasing Department uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the competitive process to keep information confidential until the Commissioners Court approves an award. These requirements also include disclosure of any potential conflict of interest, or any attempted communication by the proponent to evaluation committee members during evaluation.

Evaluation

- **IFB:** The Purchasing Department evaluates all bids with assistance from the user department and recommends the lowest responsible bid to the Commissioners Court for award. The Purchasing Department evaluates bids based on:
 - ❖ The relative price, including the cost of repair and maintenance if heavy equipment is the subject of the bid or the cost of delivery and hauling if road construction is involved;
 - ❖ The compliance of goods and services with specifications; and
 - ❖ The vendor's past performance, the responsibility of the vendor, including the vendor's financial and practical ability to perform the contract, and the vendor's safety record if the RFB states that it is to be considered.

The Purchasing Department forwards copies of the bids and the Bid Tabulation Package to the Official or Department Head for completion and signature. The user department recommendation and other appropriate documentation from the user department are submitted with the agenda request to justify the recommended award. When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bid must be documented. Commissioners Court either approves the recommendation or rejects all bids and authorizes the Purchasing Agent to re-bid the goods or services.

- **RFP:** The Purchasing Department supervises the evaluation process performed by the user department or committee to ensure that the evaluation is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional technical evaluation assistance provided by the Criminal District Attorney, Auditor, Information Technology, or Maintenance, if applicable.

The RFP must specify the relative importance of price and other evaluation factors including the relative weight of each factor. Evaluators only use these specified factors in evaluating the proposals. Purchasing staff leads the evaluation team and is responsible for:

- Tabulating scores
- Calculating values and
- Either- 1. Coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award or 2. Discontinuing the process.

After the evaluation is completed, Purchasing forwards an evaluation summary to the Official or Department Head for concurrence with the selection and requests that the Official or Department Head submit a memo to the Purchasing Agent signifying their concurrence. Purchasing makes the recommendation to Commissioners Court.

Note: For high visibility or high dollar value procurements, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers

Negotiations (RFP)

The Purchasing Agent supervises all negotiations. Any conversations with proposers must be coordinated with the Purchasing Agent. A member of the Purchasing Department should be present for all discussions with proposers. Departments that contact proposers without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process. All proposers must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals and submittal of a "Best and Final Offer" (BAFO). After the negotiations are complete, the Purchasing staff requests qualified proposers to submit a BAFO to a specified location by a specified date. Based on the negotiations, the BAFO must allow the proponent to:

- Modify the initial offer;
- Update pricing based on any changes the user department or County has made; and
- Include any added inducements to improve the overall score in accordance with the evaluation plan of the RFP

Contract Award

- **IFB:** The Purchasing Agent recommends contract award to Commissioners Court. The Commissioners Court either:
 - ❖ Awards the contract to the responsible bidder who submits the lowest and best bid; or
 - ❖ Rejects all bids and directs publication of a new notice if the goods or services are still needed.

If two or more responsible bidders submit the lowest and best bid, the Commissioners Court decides between the two by drawing lots in a manner prescribed by the County Judge. A contract may not be awarded to a bidder who is not the lowest priced bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence about its responsibility. After Commissioners Court approves the contract, the Purchasing Agent issues a Notice of Contract Award. This notice and the original contract form the complete contract. A complete original contract is maintained in the Purchasing Department. The other original is furnished to the Contractor. Copies of these are furnished to the user department, the Auditor's Department, County Clerk, and the Criminal District Attorney.

- **RFP:** The award of the contract is made by Commissioners Court to the responsible proposer, 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 in the RFP.

Re-solicitation of annual contracts

The Purchasing Department monitors the expiration dates of all contracts. Purchasing notifies user departments by memo at least three months before contract expiration and verifies whether the goods or services need to be re-bid or extended, if extensions are available. Purchasing also sends the existing specification or requirements to the user department and requests any changes before the solicitation is reissued. The user department returns the specifications or requirements with any additions, deletions, or corrections. It is very important that renewable contracts be reviewed carefully, since the Texas Constitution requires all contracts involving the expenditure of public money be subject to termination if current funds are unavailable to pay the contractual costs, so the County does not incur unauthorized debt.

Exhibit 5: Procurement Methods

Competitive Bids (Invitation for Bids)	<ul style="list-style-type: none"> • Adequate competition exists. • The product or service is available from more than one source. 	<ul style="list-style-type: none"> • Award process is simpler. • Award is made to the lowest responsive, responsible bidder providing the best value to the County. 	<ul style="list-style-type: none"> • Defined specifications may be difficult to develop • Does not encourage innovative solutions.
Competitive Proposals (Request for Proposals, Request for Offer)	<ul style="list-style-type: none"> • When factors other than price are evaluated. • When negotiations are desired. • Vendor is expected to provide innovative ideas. 	<ul style="list-style-type: none"> • Allow factors other than price to be considered. • Allow for customized proposals suggesting different approaches to the same business need. • Allow for negotiations in order to obtain the best value of the County. 	<ul style="list-style-type: none"> • Lead times for procurement may be greater. • Evaluations are more complex and subjective
Request for Information	<ul style="list-style-type: none"> • There is insufficient information to write specifications for any procurement method 	<ul style="list-style-type: none"> • Provides information to prepare a complete bid or proposal document. • Allows the business community to have input into the solicitation document based on current industry practices and market factors. • Informs County of any potential problems early in procurement. 	<ul style="list-style-type: none"> • Lengthens the procurement process.
Request for Qualification (This method is required by statute) Example: Professional Services	<ul style="list-style-type: none"> • Selection is made solely on the skills and qualifications of the contractor. Price is not a factor until after a vendor is elected 	<ul style="list-style-type: none"> • Emphasizes the competency of the proposed contractors 	<ul style="list-style-type: none"> • Contractor is selected before price is negotiated.

Chapter 11: State Purchasing Programs

Background and statutory authority

There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously entered into by the State of Texas or other governments. Texas Comptroller of Public Accounts (TCPA) manages three of them. The fourth program allows local governments to purchase computer technology directly from the state's Department of Information Resources (DIR).

- **State Term Contracts** (authorized by TLGC 271.081 - 271.083). The County may purchase from vendors on the same terms and conditions as the State. The State has entered into term contracts after using competitive bidding procedures. The TBPC manages this program for the State.
- **Texas Multiple Award Schedule (TXMAS)** (authorized by section 2155.502 of the Texas Government Code). The County may purchase goods and services from a schedule of multiple award contracts developed by the TBPC. The schedule is adapted from General Services Administration (GSA) Federal Supply Service contracts. TXMAS contracts take advantage of the most favored customer (MFC) pricing and under certain circumstances; the County may negotiate a lower price for the goods or services offered on a scheduled contract.
- **DIR** (authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code). The County may purchase computer related equipment through the DIR and its contracted vendors.

Official Representative

The Purchasing Agent acts for Walker County in all matters related to purchase of goods and services from a vendor under any contract based on any State Purchasing program. Walker County is responsible for making payments directly to these vendors.

Contract Award

The award of any purchase order contract from state term, TXMAS or DIR contracts must be in writing, approved and signed by the Purchasing Agent before any goods are delivered or services are rendered.

Chapter 12: Cooperative Purchasing Agreements

Background and statutory authority

The Interlocal Cooperation Act, TLGC, 791, authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. TLGC, 791.025(c) states that a local government that purchases goods and services under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and services. The County must have independent authority to purchase a particular good or service before utilizing an interlocal agreement, since the Interlocal Cooperation Act does not expand the County's purchasing authority. All interlocal agreements must be approved by Commissioners Court prior to initiation.

Policy

The County participates in the purchasing programs of various local, state, and national cooperatives such as Houston Area Council of Governments (HGAC), Texas Association of School Boards (BuyBoard), 1GPA, TIPS/TAPS, National Joint Purchasing Alliance (NJPA), The Cooperative Purchasing Network (TCPN) and U.S. Communities. Before using any cooperative, the Purchasing Agent researches and recommends cooperatives to the Commissioners Court. The Commissioners Court approves an interlocal agreement acknowledging the terms and conditions for using each cooperative, including any fee schedules, and authorizes the Purchasing Agent to make purchases under the terms of the interlocal agreement.

Official Representative

The Purchasing Agent acts for Walker County at the direction of Commissioners Court in all matters relating to all cooperative purchasing programs, including the purchase of goods and services from the vendor under any contract.

Chapter 13: Procurement of Professional Services

Background and statutory authority

In procuring professional services, the County must comply with two statutes: the Professional Services Procurement Act TLGC, 2254 and the County Purchasing Act TLGC, 262. There are two kinds of professional services:

- Those professional services specifically listed in the Professional Services Procurement Act; and,
- Those "other" professional services that are not specifically listed which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent relies on court cases and attorney general opinions to determine what services are included in these "other" professional services.

"Professional services" is defined in TLGC, 2254:

- Those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, real estate appraising or professional nursing, or
- Provided in connection with the professional employment or practice of a person who is licensed or registered as an architect, optometrist, physician, surgeon, certified public accountant, land surveyor, landscape architect or professional engineer, state certified or state licensed real estate appraiser, or registered nurse.

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.

Request for Qualifications (RFQ)

To ensure professional vendors a fair and equal opportunity to do business with the County, and to ensure that the services of the most qualified professional are obtained, professional services are procured using the Request for Qualifications (RFQ) process.

Procedures

Departments forward a recommendation memo to the Purchasing Agent when professional services are required. The memo identifies the following:

- Scope of work
- Qualification and experience requirements
- Project description and deliverables
- Time frames
- Budgeted amount and budget line items
- Suggested professionals

Chapter 14: Construction Procurement

Purchasing Statues

TLGC, 262.011 (e) states that "The County Purchasing Agent shall supervise all purchases made on competitive bid..." TLGC, 271 (c) is used only for public works projects funded by Certificates of Obligation. TLGC, 2267 provisions are used when an alternative project delivery method (other than traditional competitive bidding) is used for public works projects

Chapter 15: Exemptions to the Competitive Procurement Process

Purchasing Act

Some goods and services can be exempted from the competitive procurement process if the Commissioners Court orders the purchase exempt. TLGC, 262.024 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:

- Goods and services that must be purchased in a 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;
- Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
- Goods and services necessary because of unforeseen damage to public property;
- Personal or professional services;
- Work performed and paid for by the day, as the work progresses to a maximum of 20 days within any three-month period;
- Any land or right of way;
- Food goods;
- Personal property sold at auction by a state licensed auctioneer, in a going out of business sale held in compliance with the Business and Commerce Code, or by a political subdivision, state agency or federal government entity; and
- Work performed under a community and economic development contract under TLGC, 381.004.

Chapter 16: Contract Modification

Policy

Contracts approved by Commissioners Court must have approval from Commissioners Court for all modifications.

Chapter 17: Contract Administration

Policy

Contract administration and oversight includes four general processes:

- Planning
- Monitoring Contractor Performance
- Payment Approval
- Change Management

This aspect of the procurement process is important. Written documentation of specific noncompliance must be available to enforce contractual terms.

Documentation includes a description of specific dates, locations, examples, etc. of nonperformance and any contact or communication with the contractor about noncompliance.

Procedure

The user department has primary responsibility for monitoring and documenting contractor performance and compliance. The user department must provide all documentation of noncompliance to the Purchasing Department. The Purchasing Department maintains all documents about events during the term of the contract including contract performance and documentation related to clarification of expected performance. If the user department observes poor performance or noncompliance with the contract, Purchasing will communicate with the contractor and initiate any corrective action. The Purchasing department takes all steps related to obtaining contract compliance, but consults with the Criminal District Attorney before taking any steps toward contract suspension or termination. Before any letters, notices and other communication related to termination or suspension are sent to the contractor, they are reviewed by the Criminal District Attorney as the initial steps toward potential litigation. The user department should contact the Purchasing Department if there is any question about the contract.

Contract Administration

The primary objectives of contract administration are to:

- Ensure the contract requirements are satisfactorily performed,
- Properly discharge the responsibilities of both parties,
- Verify contractor performance before payment,
- Identify any material breach of contract by assessing the difference between contract performance and material nonperformance; and
- Determine if corrective action is necessary and take that action if required.

A written statement of work is the guide for contract administration. Therefore, planning for contract administration occurs before issuance of the solicitation. Effective contract administration minimizes or eliminates problems and potential claims and disputes. Proper contract management ensures that the contract requirements are satisfied, that the good(s) and services are delivered in a timely manner, and that the financial interests of the County are protected.

The contractor must perform and meet the requirements of the contract. To do so, contractors sometimes need technical direction and approval from County personnel. County personnel must provide this technical direction and approval in a timely and effective manner. All guidance provided to a contractor must be within the scope of the contract.

Contract Management

The primary responsibilities of the contract manager are:

- Participating, as necessary, in developing the solicitation and writing the draft documents,
- Monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements,
- Managing any county property used in contract performance,
- Exercising remedies, as appropriate, where a contractor's performance is deficient,
- Resolving disputes in a timely manner,
- Documenting significant events, and
- Maintaining appropriate records.

The contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interests of the County are protected.

Monitoring performance

Monitoring the performance of a contractor is a key function of proper contract administration. The purpose is to ensure that the contractor is performing all duties in accordance with the contract and for the user department to be aware of and address any developing problems or issues.

Monitoring by third party

In some instances the obligation to monitor the progress of a contract is assigned to another contractor. This is known as independent oversight. For example, in a construction contract, the architectural firm that provided the construction plans may perform the task of ensuring progress in accordance with the contract

Dispute Resolution

Dispute resolution is covered by statute under TLGC 2260. The goal of the resolution process is to resolve all problems before they escalate to the next level. To avoid escalation of problems to the next level and ensure the County has not exacerbated potential problems, County personnel must respond promptly to all contractor inquiries. Initial steps to be taken are:

- Identify the problem — what may appear to be a problem can sometimes be resolved by providing the contractor with information or clarification
- Research facts — Purchasing should obtain all the information about the potential problem from all relevant sources, including the project

Evaluation

Purchasing should review all of the facts in conjunction with the requirements and terms and conditions of the contract. Purchasing determines the appropriate course of action. Proper dispute resolution is a core skill of successful contract management. Identifying problems early in the performance period, effectively communicating, and formalizing the process in writing through a cure note procedure or less formal written procedure is essential. A contract termination is a failure by BOTH parties to a contract. **Termination is the last resort.**

Termination for convenience

A termination for convenience, also known as a no-fault termination, allows the County to terminate any contract, in whole or in part, at any time in its sole discretion, if it is determined that the termination is in the best interest of the County. Purchasing provides the contractor a written notice specifying the extent of termination and the effective date, providing as much notice as possible. The Contractor is generally paid for allowable costs incurred up to the termination. The County is not liable for payment to the contractor related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination.

Termination for default

A contract may be terminated for default when the County concludes that the contractor fails to perform, make progress, or in any way breaches the contract. Termination for default should be used as the last resort and not as punishment. The County should do everything within reason to assist the contractor in curing any default. Factors to consider before making a termination for default decision include:

- The provisions of the contract and applicable regulations,
- The specific contractual failure(s) and the explanation provided for the failures,
- The urgency of the need for the contracted supplies or services,
- The availability of the supplies or services from other sources and the time required to obtain them, and
- Availability of funds or resources to repurchase if the costs cannot be recovered from the delinquent contractor. Under a termination for default, the County may demand re-procurement costs from the defaulting contractor.

Contract File

Keeping one complete master contract administration file is critical. The file provides a basis for settling claims and disputes if they arise in administrative or court actions. Throughout the life of the contract, the Purchasing Department contract administration file should contain such documentation as:

- An original copy of the current contract and all modifications; the original contract must be recorded in the County Clerks Office.
- A copy of all specifications, drawings or manuals incorporated into the contract by reference;
- The solicitation document, the contractor's response, evaluation determination, and the notice of award document;
- A list of contractor submittal requirements;

- A list of County furnished property or services;
- A copy of the pre-award conference summary, if applicable;
- A copy of all general correspondence related to the contract;
- The originals of all contractor data or report submittals;
- A copy of all notices to proceed, to stop work, to correct deficiencies and change orders;
- The records or minutes of all meetings, both internal and external, including sign-in sheets and agendas;
- A copy of the original bidders list; and
- Any other information required by the standard contract file checklist Purchasing Policy and Procedures Manual Professional Development and Certification.

Chapter 18: Professional Development and Certification

Policy

The policy of the Walker County Purchasing Department is to develop and maintain a professional procurement staff.

Key Objectives

The following key objectives:

- The actions of the office must be legal, ethical, and defensible.
- The office contributes to the attainment of Walker County's organizational goals.
- The office effectively communicates with all county employees and vendors.
- The office consistently provides sound management data.
- The professional staff obtains the skills and training necessary to perform their duties effectively and efficiently.
- The professional staff attempts to obtain purchasing certification.
- Training to support these purposes and objectives, the training policy of the Purchasing Department is:
 - ❖ All staff must maintain an extensive knowledge of software programs to perform effectively within each related job. They must be current on all software applications used by the office. Training courses are assigned depending on knowledge and position requirements of the individual. Staff takes advantage of computer training offered by the County before pursuing external sources.
 - ❖ Professional staff is required, as funding is available, to attend the following standard seminars:
 - Basic County purchasing
 - County purchasing Law
 - Advanced County purchasing
 - Specification writing
 - ❖ Depending on availability, these courses may be substituted for other approved courses. The professional staff may continue their professional education to remain current on purchasing issues through applicable seminars as available.
 - ❖ All professional staff members are encouraged to participate in relevant training to enhance their efficiency and effectiveness in performing their duties.
 - ❖ Professional staff is encouraged to pursue professional certification through the Texas Comptroller of Public Accounts.

Chapter 19: Property Salvage and Disposal (Disposition)

General Information

Frequently throughout the fiscal year, items outlive their usefulness and become unserviceable or obsolete. Prior to taking any item out of service, it should first be determined that the item in question could not be transferred to another department for continued service. It is the responsibility of the department to send a countywide e-mail asking if anyone could use the item. If it is determined that the item is no longer serviceable to the County, an Asset-Change/Transfer form shall be completed and forwarded to the Purchasing Department for ultimate disposal. An Asset-Change/Transfer form must be completed by the using department.

Department Responsibilities

Upon written notification by the user department that an item is in need of disposal, the Purchasing Department will assume custody until final disposal. The user department will be responsible for delivery of the item(s) being transferred to the Purchasing department.

Disposal Methods

Surplus or salvage materials and equipment may be disposed of in one of the following methods:

- Public auction;
- Trade-in on new equipment;
- Sealed bids;
- Distribution as unsalvageable; and
- Sale and/or transfer to other agencies as approved by Commissioners Court.

All tagged assets must have approval of Commissioners' Court prior to being disposed.

Chapter 20: Inventory (Acquisition)

Inventory Categories

Inventory is categorized by two factors:

- The initial cost of the item is \$5,000.00, or more; and
- The anticipated useful life exceeds one year.
- Computer products
- Non Assets/Small Inventory

Exceeds \$5,000 and/or exceeds one year

These assets will be tagged and included in the annual physical inventory by the Purchasing department. Example: purchased or otherwise acquired piece of equipment, vehicle, furniture, fixture, capital improvement, infrastructure addition, or addition to existing land, buildings, etc.

Computer Products

These assets will be tagged and included in the annual physical inventory by the Purchasing department. All computer-related products will be delivered to the Purchasing Department for tagging, and then forwarded to the I.T. Department for programming before being installed at the using department.

Non Assets/Small Inventory

These assets will be tagged if the Asset Manager deems necessary or at the using departments request. These items, if tagged will be included in the annual physical inventory by the Purchasing department.

Asset Processing

The user department will receive the "Asset-Add" form to complete and sign, accepting responsibility of the asset.

Donated items

Donated items must be presented to and accepted by Commissioners' Court. It is the responsibility of the receiving department to present to Commissioners' Court. The receiving department shall:

- Notify the Purchasing Department of Commissioners' Court approval, and
- submit an Asset-Add form (if the inventory category is met)
- Forfeited or seized items must be submitted to the Purchasing Department with a copy of a Court Order.

Chapter 21: Definitions

As used in this manual, the terms below are defined as follows:

Advertisement- A public notice put in a newspaper of general circulation containing information about a solicitation in compliance with legal requirements

Alternate Delivery Method- A method of procuring construction services other than "traditional" competitive bidding. Methods may include design-build, construction manager (either at risk or as agent), and job order.

Amendment/Addendum- A document used to change the provisions of a Solicitation. Addendum is the preferred term in the Construction Industry.

Annual Term Contract- A recurring contract for goods or services, usually in effect on a 12-month basis.

Auditor- Walker County Auditor and his/her designated representatives.

Best Value- The best available offer, in the county's best interest. It is based on all factors including software cost, hardware costs, overall life cycle cost of equipment, the estimated cost or increased cost of employee training, employee productivity, installation and maintenance costs.

Bid Deposit- A deposit required of bidders to protect the county if a low bidder withdraws its bid or fails to enter into a contract. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on a US Department of Treasury listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

Bidder- A vendor that submits a bid including anyone acting on behalf of the vendor that submits a bid, such as agents, employees, and representatives.

Bidders List- An automated list of vendors who stated in writing an interest in submitting bids for particular categories of goods and services.

Centralized Master Bidders List (CMBL) – A list maintained by the Texas Building and Procurement Commission containing the names and addresses of prospective bidders.

Change Order- A document used in construction contracts to change the contract by modifying the specifications, increasing or decreasing the cost, adjusting the time for performance or changes the goods or services to be delivered.

Commissioners Court- Walker County Commissioners Court.

Commodity Code- The accounting system classification of goods and services with a unique number assigned to each description.

Competitive Bidding- Process that allows available vendors to compete with each other to provide goods or services.

Competitive Proposal Process- Process that allows available vendors to compete with each other to provide goods and services that permits flexibility in product solicitation and negotiation in compliance with TLGC, 262.030.

Component Purchases- A series of purchases of component parts of goods that are normally purchased as a whole.

Consultant- A person who provides or proposes to provide advice and counsel in a specialized area.

Contract- A formal or written agreement executed by the county and a vendor containing the terms and conditions under which goods or services are furnished to the County which commits the County's funds.

Contractor- A vendor who has been awarded a contract by Walker County.

Customers- The county's departments and officers

Cycle Time-The time between when a purchase requisition is received in the Purchasing Department and placement of a purchase order with a vendor. Cycle time does not include the time required for delivery or the time it takes for the Purchasing Department to obtain corrections to line item accounts, commodity codes, and other necessary information.

Department Head- Any Department Head and any person authorized to act on his or her behalf.

Design-Build Contract- A single contract with a vendor for the design and construction of a facility that includes an engineer or architect and builder qualified to engage in building construction in Texas.

Design Criteria Package- A set of documents that provides sufficient information to permit a vendor to prepare a response to County request for qualifications and any additional information requested, including criteria for selection.

Department- All County and precinct offices as well as district offices when the purchases are funded even partially with county funds.

Emergency Purchase- An item that must be purchased in a 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

Employee- Any county or precinct elected official, appointed official, or employee and any district elected official, appointed official or employee involved in a county purchase when the purchase is funded even partially with county funds, or anyone who acts on behalf of any of them.

Formal Competitive Bidding- The bidding process in compliance with the County Purchasing Act which requires approval by the Commissioners Court.

Financial Software- Walker County Financial Management System which includes modules for purchasing and fixed asset management.

Goods- Any personal property purchased by the County, including equipment, supplies, material, and component or repair parts.

Informal Competitive Bidding- The bidding process for bids less than \$50,000

Invitation For Bid (IFB)- Informal or formal procurement method

IT- Information Technology Department.

Items Less Than \$50,000- Purchases of goods and services that are accounted for in the same commodity code in the County Chart of Accounts, and purchases of goods and services from a single vendor in a single purchase as defined in the County Purchasing Act, involving an expenditure of less than \$50,000 if some or all of the costs is to be paid from county funds.

Lease- A contract for the use of personal property for a period of time in return for a specified compensation.

Lowest Responsible Bid- The offer from a bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid and includes any related costs to the county in a total cost concept and who has the financial and practical ability to perform the contract and whose past performance indicates likely compliance with all material terms of the contract.

Modification- A document used to change the provisions of a contract.

Negotiations- A consensual bargaining process in which the County and vendors attempt to reach agreement on differences in desired contract provisions or a potentially disputed matter for the purpose of reaching a mutually-acceptable arrangement.

Occupant Department- The department that ultimately uses the finished goods or services when the purchase or construction is completed, which may be different from the user department.

Official- Any elected or appointed official and any person authorized to act on his or her behalf.

Payment Bond- A surety bond executed in connection with a contract that secures the payment requirement of the contractor.

Performance Bond- A surety bond that provides assurance of a bidder's performance of a certain contract.

Pre-Bid/ Proposal Conference- A conference conducted by the Purchasing Department for the benefit of those wishing to submit a response for services or supplies required by the County which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.

Professional Services- Services directly related to professional practices as defined by the Professional Services Procurement Act, including those services within the scope of the practice of accounting; architecture; optometry; medicine; land surveying; and professional engineering.

Proprietary Information- Information provided in responses to solicitations to which a vendor claims ownership or exclusive rights and which is protected from disclosure under the Texas Public Information Act TLGC, 551.

Public Works- Constructing, altering, or repairing a public building or carrying out or completing any public work.

Purchase Order- An order by the Purchasing Department for the purchase of goods and services written on the county's standard Purchase Order form and which, when accepted by the vendor without qualification within the specified time limit, becomes a contract or an amendment to an existing contract which operates as the vendor's authority to deliver and invoice for goods or services specified, and is the County's commitment to accept the specified goods or services for an agreed upon price.

Purchase Requisition- An automated request from a user department submitted to the Purchasing Department that authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services for the County and authorizes the Auditor to charge the appropriate department budget and which is for internal use and cannot be used by a department to order materials directly from a vendor.

Purchasing- The acquisition of goods and services including construction and professional services.

Purchasing Act- TLGC, 262, C, which governs the conduct of purchasing activity for counties.

Purchasing Agent- A person appointed by the Purchasing Board of the County to make recommended purchases on behalf of the County in accordance with state statute and county policies.

Purchasing Board- A board composed of the judges of the district courts in the county and the county judge, who are responsible for appointing the Purchasing Agent and approving the office's budget.

Purchasing Laws- The laws that govern county purchasing including the following laws:

- Purchasing Act, TLGC, 262, C

- Public Property Finance Act, TLGC, 271, B
- State Contract, TLGC, 262.002, 271.0813
- State Catalog, TLGC, 2157 in coordination with TLGC, sections 271.101-271.103
- Services and Products of Severely Disabled, Texas Human Resource Code, 122
- Interlocal Cooperation Agreement, TLGC, 791
- Prompt Payment Act, TLGC, 2251
- Bidders from other States and 5% Retainage, TLGC, 2252
- Public Works Performance and Payment Bonds, TLGC, 2253
- Professional Services Procurement Act, TLGC, 2254, A
- Wage Rate for Construction Projects, TLGC, 2258
- Sales tax exemption for governmental entities TLGC, 151.309
- Worker's Compensation Compliance, Workers Compensation Rule 110.110
- Uniform Electronic Transaction Act, Texas Business and Commercial Code, Chapter 43

Purchasing Department- Walker County Purchasing Department and its staff.

Purchasing Liaisons- designated purchasing contact within each department.

Real Property- Land or buildings, improvements to land or buildings, or infrastructure.

Request for Information (RFI)- A general request to contractors for information for a potential future solicitation which is used as a research and information gathering tool for preparation of specifications and requirements.

Request for Proposal (RFP)- A document requesting an offer from vendors, which allows for negotiations after a proposal has been received and before award of the contract for goods and services procured in compliance with TLGC, 262.0295 - 262.030.

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

Request for Services (RFS)- A document that requests information about qualifications and details of services to be provided and costs for other professional services that are not covered by in the Professional Services Procurement Act, but may be exempted from competitive solicitation under the County Purchasing Act.

Responsive- A vendor who has complied with all material aspects of the solicitation document, including submission of all required documents.

Responsible- A vendor who has the capability to perform fully and deliver in accordance with the contract requirements based on consideration of past performance, financial capabilities, and business management.

Sealed Bids- Offers in response to an Invitation for Bids that is advertised in a newspaper and submitted to the Purchasing Department in a manner that conceals the price.

Separate Purchases- Acquisitions made in a series of different orders for goods and services that in normal purchasing practices that would be purchased in a single order.

Sequential Purchases- Acquisitions made over a period of time that in normal purchasing practices would be made at one time.

Services- The furnishing of labor by a contractor that does not include the delivery of a tangible end product and includes all work or labor performed for the County on an

independent contractor basis, including maintenance, construction, manual, clerical, personal 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 TLGC, 262.024.

Solicitation- A document, such as an invitation for bid, request for proposal, request for offers or request for qualifications, issued by the Purchasing Department that contains terms and conditions for a contract and that solicits a response from vendors to provide goods or services needed by the County in accordance with those terms and conditions.

Solicitation Conference- A meeting chaired by purchasing staff, designed to help potential vendors understand the requirements of a solicitation. Also known as a pre-bid or pre-proposal conference.

Specifications- A total description of a good or service to be purchased by the County, and the requirements the vendor must meet to be considered for the contract which may include requirements for testing, inspection, or preparing any good or service for delivery, or preparing or installing it for use.

User Department- The department from whose budget line item the contract is paid.

Vendor – A business entity or individual that seeks to have or has a contract to provide goods or services to the County.

Appendix-1 Procurement Card Policy and Procedure Manual



Walker County

Appendix- 1 Procurement Card Policy and Procedures Manual

Adopted June 2018, Rev January 2022

Charlsa Dearwester, CTPM
Purchasing Agent
1301 Sam Houston Ave, Suite 235
Huntsville, Texas 77342
purchasing@co.walker.tx.us

Purpose

To establish a methodology to define the limits of use of County issued Procurement Cards provided to certain personnel in order to make purchases of goods and/or services.

Procedure

The Procurement Card Program (P-Card) is established to provide immediate access to goods and/or services in a work stoppage situation, for routine supplies, travel related expenses or approved on-line purchases. Cardholders may initiate a transaction, within the limits of this policy and procedure and receive goods and/or services. Payments to vendors will be made by the P- Card Company. Accounts Payable will make monthly payments at the end of the billing cycle.

Receiving a Procurement Card

- Employees requesting a P-Card must submit an Enrollment Request Form (Appendix A) to the P-Card Administrator. The application must be approved by the appropriate Elected Official/Department Head responsible for the department in which the employee works.
- The P-Card Administrator shall have authority for card issuance.
- All initial P-Cards issued shall have a credit limit of \$5,000 as set by the Purchasing Agent.
- Approved Cardholder may attend a procurement training session by the Purchasing Agent upon request by the Cardholder.
- Approved Cardholder shall be issued a copy of this policy when P-Card is issued the by the P-Card Administrator.
- A Walker County Procurement Card Agreement shall be signed by each Cardholder prior to being issued a P-Card. The Agreement (Appendix B) indicates that the Cardholder understands the policy and procedures and the responsibilities of a P- Card Cardholder.
- In the event of any extenuating circumstances, the P-Card Administrator may request a temporary increase with verbal approval by the Purchasing Agent.
- In the event that the Cardholder needs a permanent limit change, the Employee requesting the increase must submit a Limit Change Request Form (Appendix C) to the P-Card Administrator. This request must be signed by the Cardholder, Cardholder's Elected Official/Department Head, Purchasing Agent and the P-Card Administrator.
- The P-Card Administrator has the authority to terminate or suspend a P-Card as required at any time as stated in this policy to protect the County's interests.
- The P-Card Administrator shall maintain all records of P- Card enrollment requests, authorizations, purchase limits, purchase limit increase requests, and any lost/stolen/destroyed card information.

Authorized Procurement Card Use

The P- Card shall have the Cardholders name embossed on it and shall be used only by the Cardholder. **NO OTHER PERSON IS AUTHORIZED TO USE THE CARD.**

The Cardholder may make transactions on behalf of others within their department with the written approval of a supervisor authorized to approve such purchases. The written approval for purchase on behalf of another employee must accompany the documentation for the purchase. The Cardholder is responsible for all use of his/her card. Use of the P- Card shall be limited to the following conditions:

- The purchase shall not circumvent any procurement policy or other policies adopted or approved by Commissioners' Court.
- When deemed an efficient procurement method and is for the best interest for Walker County.

Unauthorized Procurement Card Use

A Cardholder who makes unauthorized purchases or carelessly or fraudulently uses the P- Card, may be liable for the total dollar amount of such unauthorized purchases plus any administrative fees charged by the Bank or other associated costs in connection with the misuse. The Cardholder will also be subject to disciplinary action up to and including termination. The P- Card **SHALL NOT BE USED** for the following:

- Circumventing Commissioners Court approved contracts for items/services.
- To split purchases or make sequential purchases to avoid exceeding the maximum for a single transaction or purchasing threshold.
- Vendors that have an account set up with a procurement savings card. (Example: Walmart, Home Depot, Office Depot)
- To avoid competitive bidding requirements.
- Items/services that are on a current solicited contract.
- Purchase of a fixed asset without appropriate Purchasing Office and Commissioners Court approval.
- Technology devices and long-term commitments for services without appropriate Purchasing Office and Commissioners Court approval.
- Tires.
- Purchases for personal, family members, or friends use.
- Purchases that do not comply with the travel policy.
- Entertainment expense.
- Cash Advances.
- Telephone calls.
- Alcoholic Beverages.
- Tips.
- Unauthorized purchases.
- Any additional products/services restricted by County policy or state statutes.

Making a Purchase

- P- Card purchases for services do not require a requisition/purchase order process.
- P- Card purchases for goods do require an annual requisition, but do not require the purchase order process.
- It is policy to seek competition when possible, utilize existing contracts, and seek the lowest prices within the parameters of quality and delivery.
- All purchases must adhere to the guidelines established in the Procurement Policy Manual adopted by Commissioner's Court.
- Confirm that the good or service are available, meets the specification and delivery requirements, and agrees to accept your P- Card.
- All products purchased with a P- Card shall be sent to the Cardholder ordering the merchandise, as this will ensure that the documents necessary for the record keeping are readily available to the Cardholder.

Sales Tax

Cardholders are responsible for ensuring the vendor does not include sales tax in the transaction. If sales tax is included, the Cardholder will be responsible for ensuring that the vendor credits the sales tax back to the card no later than the following billing cycle. If the vendor does not credit sales tax back to the card, the Cardholder is responsible for reimbursing the tax amount back to the Walker County Treasurer.

- Walker County Tax Exempt Identification Number is 74 600 1432.
- Cardholder will be provided a copy of Walker County's tax exemption certificate upon request to the Purchasing Agent.

Cardholder Record Keeping

Whenever a P-Card purchase is made, documentation shall be retained as proof of the purchase. Such documentation will be used to verify the purchases listed on the Cardholder's monthly statement.

- When the purchase is made over the counter, the Cardholder shall retain the original invoice/receipt. The Cardholder is responsible for making sure the vendor lists the quantity and fully describes the item(s) on invoice/receipt.
- A copy of the invoice and approval for payment is due to the Auditors office within 10 business days of the statement notification.
- When making a purchase on-line, the Cardholder shall document the transaction by printing an itemized receipt and retain all shipping documentation.
- Cardholders are required to retain itemized corresponding receipts for all transactions and process them as required.
- All allowable expenses identified in this policy for Travel require the appropriate Travel Expense Form as outlined in the Travel Policy.
 - ❖ Travel Expense Forms shall be accompanied with itemized receipts and should clearly identify the training event attended with documentation attached that identifies the event as well as the receipt for the transaction. If traveling is not for conference or training the

Cardholder shall be exempt from the agenda or program outline. (See Travel Policy)

- Support documentation includes, receipts, shipping documents to verify the monthly transactions, packing slip, invoice, cash register tape, and credit card slips, etc.
- After the Cardholder has approved a transaction by signing the invoice/receipt and attaching all support documentation, the Cardholder must submit the items to his/her approving supervisor for approval before submitting to the Auditor's Office.
 - ❖ If the Cardholders approving supervisor is unavailable for approval then the items must be submitted to the Auditor's Office with a written note indicating why an approval was not received.
- If the Cardholder does not have documentation of a transaction listed on the statement, he/she shall attach a signed explanation that includes a description of the items(s) purchased, date of purchase, vendor's name and reason for lack of supporting documentation with supervisors' approval. Lack of documentation may be grounds for suspension of P- Card privileges and possible disciplinary action.
- Return of Items: If an item is not satisfactory, received wrong, damaged and/or defective or is a duplicate order, the Cardholder is responsible for making contact with the vendor to have the issue resolved. Items should be returned properly to the vendor by whichever means the vendor requires. The Cardholder must notify the Auditor's Office in writing of the return and shall attach a signed explanation that includes a description of the items(s) purchased, date of purchase, and vendor's name. The Cardholder is responsible for verifying accurate credit is posted for any returned items not to exceed two (2) billing cycles. Cash refunds shall be taken to the Treasurer's Office immediately.
 - ❖ If an item has been returned and a credit voucher received, the Cardholder shall verify with the Auditor's Office that this credit is reflected on the statement. The credit invoice/receipt must be submitted to the Auditor's Office and approved as documentation for the transaction.
 - ❖ If purchased items or credits are not listed on the monthly statement, the appropriate transaction documentation shall be RETAINED by the Cardholder until the next month
 - ❖ If the purchase or credit does not appear on the statement within sixty (60) days or two (2) billing cycles after the date of purchase, the Cardholder shall reimburse the charge to the County through the Walker County Treasurer's Office. The employee reimbursement receipt must be submitted and approved as documentation for the transaction to the Auditor's Office.
- Immediate action to resolve a dispute is of extreme importance. The Cardholder is responsible for correcting any erroneous charges, disputed items or returns. Disputed items can result from failure to receive goods or services, fraud or misuse, altered charges, defective merchandise, incorrect amounts, duplicate charges, credits not processed, sales tax, etc. It is the responsibility of the Cardholder to contact the vendor to determine a

resolution. The Cardholder must notify the Auditor's Office of any charge in dispute and its resolution for payment purposes. The Cardholder must notify the Auditor's Office and P-Card Administrator in writing of a Dispute that involves fraudulent charges.

P-Card Statement

The Auditors office will email a copy of the County wide statement each month to each County Elected Official/Department Head, or their designee (one) for distribution to Cardholders. The Elected Official/Department Head or their designee (one) is expected to work with the Cardholders they approved for a P-Card.

Suspension

Invoices and authorization for payment are due within 10 days of the charge to the card. With exceptions for special circumstances, all invoices, proper documentation, and authorization for payment shall be submitted to the Auditors Office no later than ten (10) business days of the receipt of the County statement for the Procurement Card. Failure to comply shall result in card privileges being suspended for 90 days and after two (2) suspensions within one (1) calendar year card privileges will be terminated.

Charge Appeal

The Cardholder is responsible for personal payment of lost receipts or receipts not received. The Cardholder shall reimburse the County through the Treasurer's Office immediately. A Cardholder may appeal to Commissioners' Court to make exception for lost receipts for special and non-recurring circumstances and submit a claim for reimbursement.

Card Security

It is the Cardholder's responsibility to safeguard the P-Card and account number to the same degree that a Cardholder safeguards his/her personal credit information.

- The Cardholder must not allow anyone to use his/her account number. A violation of this trust will result in that Cardholder having his/her card suspended and possible disciplinary action.
- If the card is lost or stolen, the Cardholder shall immediately notify the – Card provider. Representatives are available 24 hours a day. Cardholder must advise the representative that the call is regarding a MasterCard Procurement Card. The P-Card Administrator must also be notified immediately.
- A new Procurement Card shall be promptly issued to the Cardholder after the reported loss or theft. A card that is subsequently found by the Cardholder after being reported lost shall be destroyed by the P-Card Administrator.

Cardholder Separation

Prior to separation from the County, or transfer to another department, the Cardholder shall surrender the P-Card to his/her approved Elected Official/Department Head.

Upon its receipt, Elected Official/Department Head shall review, approve, and forward the month end statement to the Auditor's Office and the P- Card to the P-Card Administrator.

Definitions

P-Card: Procurement Card System

Vendor: A company from which a Cardholder is purchasing materials and/or equipment or services under the provisions of this procedure.

Cardholder: Personnel who have been issued Procurement Cards and who are authorized to make purchases in accordance with these procedures.

Designee: This individual has been delegated the authority to act on behalf of his/her Elected Official/Department Head and shall review and approve a Cardholder's monthly statement.

Intermittent: Occurring at irregular intervals; not continuous or steady.

P-Card Administrator: The County Treasurer is responsible for all program details.

Purchasing Agent: Is responsible for approving employee purchasing authority and setting procurement limits.

Monthly Purchase Limit: A dollar amount not to exceed for the duration of the billing cycle.

Routine Supplies: Small value items where the use of Procurement Card System is more efficient for products approved by policy or when vendor will not accept a purchase order. Routine supplies do not include stock items.

Work Stoppage: Situations where supplies or services are required to complete a project in a timely and efficient basis.

Point of Sale: A Point of Sale transaction is the point at which a retail transaction is completed where a cardholder makes a payment in exchange for goods and /or services in the same transaction.

Appendix A Enrollment Request Form

**WALKER COUNTY PROCUREMENT CARD PROGRAM
ENROLLMENT REQUEST FORM**

This form is to request enrollment for a Walker County Procurement Card. I understand that, if approved, I will be issued a MasterCard in my name to be used for official County business only. As a Cardholder, I understand that I will be required to sign a procurement card agreement and have the option to attend a procurement card training session provided by the Purchasing Agent.

Cardholder Name: _____ Employee ID#: _____

Email Address: _____

Personal Street Address _____

Personal Phone #: _____ Office Phone #: _____

PURCHASING AUTHORITY: TRAVEL PRODUCTS SERVICES ALL

Department: _____ Monthly Cycle Limit: \$ _____

Elected Official/Department Head Approval Date

Purchasing Department Approval Date

As Cardholder, my signature acknowledges that I have received the listed credit card, training and credit card procedures manual.

Cardholder Signature Date

For Card Coordinator Use Only	
Last 6 of Card Number: _____	Date Issued: _____
4 Digit Activation Code: _____ P-Card Policy & Procedures Manual Issuance: _____	
P- Card Administrator Signature: _____	Date: _____
Date of Card Returned/Cancelled: _____	

Appendix B Procurement Card Agreement

WALKER COUNTY PROCUREMENT CARD AGREEMENT

I, _____, request to be assigned a Procurement Card in the name of Walker County. I understand that Walker County agrees to provide this Procurement Card to myself under the following conditions.

I _____ agree to abide by any and all procurement and travel policies, procedures, statutes, or legislation present or future while using this Procurement Card.

I _____ agree that the use of the Procurement Card is not for personal use and that misuse of the card can result in termination of the Procurement Card.

I _____ agree fuel for personal vehicles and employee meals may not be charged to a Procurement Card and that fuel for personal vehicles and employee meals shall be reimbursed on a travel expense form or requested by providing detailed receipts attached to a check request.

I _____ agree employees not issued a fuel card may use the Procurement Card for intermittent fuel purchases for county vehicles while traveling on county business, otherwise a fuel card shall be used when accepted with the area.

I _____ agree each charge to my Procurement Card must be properly documented with a detailed receipt and supporting documents.

I _____ agree no sales tax shall be charged on any County credit cards.

I _____ agree all purchases of supplies or services are to be documented with a detailed receipt and/or documentation supporting each charge and approval for payment.

I _____ agree that a travel form with original receipts attached and detailed documentation for describing the purpose of the travel must be provided for travel related charges to the Procurement Card.

I _____ agree the Procurement Card is a form of payment and in no way shall circumvent the procurement process.

I _____ agree that with exceptions for special circumstances, all invoices, proper documentation and authorization for payment shall be submitted to the Auditors Office no later than (10) business days of the statement for the Procurement Card. Failure to comply shall result in card privileges being suspended for 90 days and after two (2) suspensions within one (1) calendar year card privileges will be terminated.

I _____ agree my procurement Card shall be surrendered immediately upon separation of employment.

I _____ agree the Cardholder shall be responsible for personal payment of invoices and charges due to lost receipts or receipts not received. The Cardholder shall reimburse the County through the Treasurer's Office immediately.

I hereby acknowledge acceptance and agree to abide by the above stated guidelines, and agree to be bound by all requirements, county policies, and state regulations as set forth in the above referenced agreement.

Employee Signature

Date

Elected Official/Department Head, Name

Date

Appendix C Limit Change Request Form

**WALKER COUNTY PROCUREMENT CARD PROGRAM
LIMIT CHANGE REQUEST FORM**

This form is to request a limit increase to an existing Walker County Procurement Card.

Cardholder Name: _____ **Employee ID#:** _____

Last 4 Credit Card #: _____ **Email Address:** _____

Personal Phone #: _____ **Office Phone #:** _____

PURCHASING AUTHORITY: **TRAVEL** **PRODUCTS** **SERVICES** **ALL**

NEW LIMITS REQUESTED

Current Monthly Cycle Limit \$ _____ **New Monthly Cycle Limit: \$** _____

Elected Official/Department Head Approval

Date

Cardholder Signature

Date

Purchasing Department Approval

Date

P- Card Administrator Signature

Date

Appendix-2 Check Request / Requisition

Pay to: _____

Amount: \$ _____

Date: _____

Vendor# _____

Date Check Needed: _____

[illegible]

The above has been reviewed and recommendation for payment is made. I certify that the purchases were made in accordance with law and county adopted policies and that the purchase is solely for county purposes:

Signature of Certifying Employee

Department Approval and Certification

Purchasing Department - If Requisition Required

County Auditor Department Reviewed

Special Instructions: _____

Form: Check Request/Requisition
Use of Standard Form is required
County Auditor 09/06

Appendix-3 Procurement Policies and Procedures for Federal Grant Funds

Adopted July 2018, Rev January 2022

WALKER COUNTY PROCUREMENT POLICIES AND PROCEDURES-FEDERAL GRANT FUNDS

The County of Walker 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.

- (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 cost-effective 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.

(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.

(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.

(i) **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.

(ii) **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.

(iii) **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.
- (iv) **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.
- (i) **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 though 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. 7401-7671g) 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. 7401-7671g) 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.

*****§ 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.