

Chambers County, Texas Purchasing Policy



Updated
June 22, 2021

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I. Purchasing Statement

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

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

To achieve the purpose of this Article, it is essential that those doing business with Chambers County also observe the ethical standards prescribed herein.

II. Code of Ethics

- a. **Personal Gain:** It shall be a breach of ethics to attempt to realize personal gain through public employment with Chambers County by any conduct inconsistent with the proper discharge of the employee's duties.
- b. **Influence:** It shall be a breach of ethics to attempt to influence any public employee of Chambers County to breach the standards of ethical conduct set forth in this code.
- c. **Conflicts of Interest:** It shall be a breach of ethics for any employee of Chambers County to participate directly or indirectly in procurement when the employee knows that:
 - i. the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
 - ii. a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement;
 - iii. any other person, business or organization with which the employee or any members of the employee's

immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

- d. **Gratuities:** It shall be a breach of ethics to offer, give or agree to give any employee or former employee of Chambers County, or for any employee or former employee of Chambers County to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, requesting for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore pending before this local government.
- e. **Kickbacks:** It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Chambers County, or any person associated therewith, as an inducement for the award of a subcontract or order.
- f. **Contract Clause:** The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.
- g. **Confidential Information:** It shall be a breach of ethics for any employee or former employee of Chambers County knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

III. **Purchasing Overview**

- a. The following type of purchases, requirements and operations of the County are included under the purchasing policy: office supplies, office furniture and equipment, materials, insurance, high technology items (including data processing equipment, software, hardware, telecommunications, radio and microwave systems), maintenance and construction by County personnel or outside companies, professional services, repairs, professional dues and contributions, legal publications

- (including subscriptions, pamphlets, manuals, reporters, journals, codes and statutes), and printing.
- b. All purchases will be for a quality suitable to the purpose at least expense to the County.
 - c. All departments must be aware of their budget status at all times which requires timely recording of all purchase commitments and review of budget status reports. The Purchasing Department is required to provide timely notification when an appropriated account is depleted to avoid overdrawn accounts.

IV. Requisition Forms

- a. A requisition will be submitted for the approval of a purchase for office supplies, office furniture and equipment when placing the order through the Purchasing Department. Upon receipt of the requisition by the Purchasing Department, they will obtain the lowest quote for the quality desired item which is available from responsible suppliers and furnish to the County Judge, Department Head, or Elected Official (in accordance with spending authority levels) for approval. The appropriate party will approve or deny the purchase.
- b. A requisition form is required for all purchases of \$ 1,000.00 or more.
- c. All purchases made by departments will originate with a request either verbal or via purchase requisition in accordance with authorized spending authority levels from the using department head/official to the Purchasing Department for a purchase order. Department head/official will supply vendor information, account numbers, and amount of purchase (overestimate if the amount is unknown). Requests will then be submitted to the County Judge, Department Head, or Elected Official (in accordance with spending authority levels) for approval. The appropriate party will approve or deny the purchase. If approved, a purchase order will be generated and the purchase can be made by the department.
- d. Change order requests for construction contracts, etc. must be accompanied by a purchase requisition form. If the change order is approved by Commissioners' Court, the purchase requisition will be approved by the County Judge and County Auditor, and then forwarded to Purchasing to increase the blanket purchase order encumbrance. The County Auditor will forward to the budget office to increase the budget for the change order.
- e. In all cases, typed requisitions should be received by the Purchasing Department and/or the Elected Official at least five workdays prior to the date the materials are needed.

- f. If possible, each department head/official should anticipate requirements months in advance and requisition early enough to receive items prior to need.
- g. The department head/official or duly authorized person within the office initiates, prepares, and signs the requisition.
- h. To be processed, a requisition must contain the following information:
 - i. Any one requisition may include more than one type of purchase;
 - ii. Include date requisition is completed and submitted to the Elected Official;
 - iii. Include number of each item requested;
 - iv. Include the Vendor name and number;
 - v. Include description, specifications or explanation of request;
 - vi. Add date materials are needed, if applicable. Allow at least 3-4 weeks for delivery from date shown on requisition;
 - vii. Add department head/official and approve by signature;
 - viii. County Auditor must approve by signature.
- i. If the Elected Official and County Auditor approves, a purchase order will be generated. If denied, the requisition will be returned to the department head/official.

V. Purchase Order

- a. A purchase order is the seller's authorization to invoice and ship the equipment, materials, services, or supplies; and should specify terms and conditions when necessary to limit the seller's authorization to invoice for an amount different from previously agreed upon. This is important for large purchases, equipment, and vehicle repairs.
- b. A purchase order will be generated only after the Elected Official and County Auditor approves the purchase for purchase orders in excess of \$1,000.00.
- c. Departmental accounts are encumbered at the time a purchase order is generated.
- d. The using department head/official will not enter into negotiations with any vendor for the purchase of equipment, materials, services, or supplies unless authorized by this policy.
- e. When the invoice and receiving copy have been received, the bill will be processed for payment.
- f. The department head/official will send the original purchase order along with the original invoice to the County Auditor.
- g. The County Auditor will approve the invoice and submit to accounts payable.
- h. Purchase orders should be approved prior to committing to a purchase and a purchase order number should be provided to the vendor to be included on the vendor's invoice.

VI. Purchases Between \$0.01 and \$999

- a. Confirmation purchase orders are authorized for purchases less than \$ 1,000.00 and must be signed by the Elected Official, Department Head, or duly authorized representative.
- b. Confirmation purchase orders that exceed an appropriated budget are to be accompanied by notification in writing from the Purchasing Department to the County Judge, County Auditor, and the department head/official and future purchases ceased until a budget transfer/amendment is approved and processed.
- c. After making the purchase, the department head/official will send: a signed request for payment, a signed original purchase order, an original invoice, a delivery ticket and any other supporting documents to the Auditor's office.
- d. The Auditor's office will then audit, sign, and process for payment.

VII. Purchases Between \$1,000 and \$4,999

- a. The department head/official will fill out a requisition form, with at least two quotes when possible, that must be approved by the Elected Official and County Auditor.
- b. For department heads, this means the County Judge must approve the requisition along with the County Auditor.
- c. If funds are not available in the account, the requisition will be denied until a budget transfer/amendment is approved and processed.
- d. If approved, a purchase order will be created and the purchase can be made.
- e. After making the purchase, the department head/official will send: a signed request for payment, a signed original purchase order, an original invoice, a delivery ticket and any other supporting documents to the Auditor's office.
- f. The Auditor's office will then audit, sign, and process for payment.

VIII. Purchases between \$5,000 and \$49,000

- a. The department head/official will fill out a requisition form, along with three quotes when possible, and it must be placed on the Commissioners' Court agenda for approval.
- b. Upon approval, the County Judge and County Auditor will sign the requisition form authorizing the Purchasing Department to issue a purchase order.
- c. If funds are not available in the account, the requisition will be denied until a budget transfer/amendment is approved and processed.
- d. After making the purchase, the department head/official will send: a signed request for payment, a signed purchase order, an original invoice, a delivery ticket and any other supporting documents to the Auditor's office.

- e. The Auditor's office will then audit, sign, and process for payment.
- f. For capital assets, Form 14-101 needs to be completed and attached to a request for payment.

IX. Purchases over \$50,000 / Competitive Bidding (Statutory)

- a. Purchases of one or more items under a contract that will require an expenditure exceeding \$50,000 will be made on the competitive proposal only. The request to advertise for bid/proposal is made directly to the Commissioners' Court by the department head/official. Request for bid shall be submitted to the County Judge for placement as an agenda item to be considered at the next session of Court.
- b. Upon the Commissioners' Court approval, the department head/official will draw specifications and submit to the County Judge. The County Judge will advertise for bids according to law. All competitive bids/proposals will be received by the County Judge and will be opened during Commissioners' Court and awarded to the lowest and best bidder.
- c. A contract for the purchase of any of the following items is exempt from the competitive bidding requirements if the Commissioners' Court by order grants the exemption:
 - i. 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;
 - ii. An item necessary to preserve or protect the public health or safety of the residents of the County;
 - iii. An item made necessary by unforeseen damage to public property;
 - iv. A personal or professional service;
 - v. Any work performed and paid for by the day, as the work progresses;
 - vi. Any land or right-of-way;
 - vii. An item that can be obtained from only one source, including; items for which competition is precluded because of the existence of patents, copyrights, secret process, or monopolies; films, manuscripts, or books; electric power, gas, water, and other utility service; captive replacement parts or components for equipment; or
 - viii. Lease renewals or equipment maintenance agreements which have previously gone through competitive bid process within the preceding year; providing however, that such extension or renewal period shall not exceed one year and

that there shall be not be more than one extension or renewal of such agreement

- d. All purchase orders will be generated and sent to the requesting department. Vendor's copy of purchase of the purchase order will be mailed to them with notification of award.
- e. See Bidding Procedures for Purchases Over \$50,000.00
- f. For capital assets, Form 14-101 needs to be completed and attached to a request for payment.

X. Blanket Purchase Orders

- a. Blanket purchase orders are authorized for larger purchases such as construction contracts, monthly service items, etc. where a commitment is made and invoices may occur monthly.
- b. The blanket purchase order is issued for the full amount and monthly invoices are applied to the balance of the purchase order and the encumbrance is updated to reflect the remaining commitment balance.
- c. Change orders for construction projects must follow the purchase requisition approval process. Invoices from construction contractors must include a fully complete and authorized American Institute of Architects document G-702 Application and Certificate for Payment. Final invoices must also include AIA document G-706 and G-706A (Contractor's Affidavit and Release of Liens and Affidavit of Payment of Debts and Claims.) More information is available in the Chambers County Construction Purchasing Manual.

XI. Open Purchase Orders

- a. Open purchase orders are authorized for small, routine maintenance type purchases such as hardware stores, etc. and are closed monthly for payment processing.
- b. Open purchase orders that exceed an appropriated budget are to be accompanied by notification in writing from the Purchasing Department to the County Judge, County Auditor, and the Elected Official/Department Head and future purchases ceased until a budget transfer/amendments is approved and processed.
- c. Spending authority levels apply to any single purchase.

XII. Expedited Purchases (\$1,000 or More)

- a. Expedited purchases are not emergency purchases. They are for items needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal work routine. However, they are not to be used unless absolutely required.

- b. All expedited purchases must be approved by the department head/official prior to purchases; in accordance with the spending authority level.
- c. The using department will initiate an expedited purchase by contacting the County Judge, notifying him/her of the purchase, approximate cost and requesting authorization for a purchase order;
- d. This purchase order is then given to the vendor supplying the item. The department will secure a sales ticket/invoice for the item from the vendor, complete a requisition form with the ticket/invoice attached and the notation "THIS IS AN EXPEDITED PURCHASE" will be written in the upper part of the requisition;
- e. The requisition and invoice are then submitted to the County Judge no later than the next workday after receiving the invoice or sales ticket;
- f. A confirming purchase order, bearing the same number as the one originally issued, will be sent to the vendor by Purchasing. All copies of the purchase order will be stamped "CONFIRMED".
- g. Failure to comply with the requirements of this section will result in the invoice being denied approval for payment.

XIII. Emergency Purchases (\$1,000 or More)

- a. An emergency purchase is for the purchase of supplies, materials, services, etc. which are so badly needed that the department will suffer financially or operational damage if supplies are not secured immediately or to keep building and machinery in operating condition when their idleness would result in expense to the County. An emergency purchase may also be made for extreme emergency cases involving the public health and welfare.
- b. Emergency purchases should be curtailed as much as possible by anticipating needs far enough in advance that regular purchasing procedures may be followed.
- c. Emergency purchases are authorized in accordance with the following conditions:
 - i. All emergency purchases must be approved by the department head/official prior to purchases; in accordance with the spending authority level.
 - ii. During regular working hours (8:00am-5:00pm, Monday through Friday excluding holidays), the using department will initiate an emergency purchase by contacting the County Judge, notifying him/her of the emergency, approximate cost and requesting authorization for a purchase order;
 - iii. This purchase order is then given to the vendor supplying the item. The department will secure a sales ticket/invoice for the item from the vendor, complete a requisition form with the

- ticket/invoice attached and the notation "THIS IS AN EMERGENCY PURCHASE" will be written in the upper part of the requisition;
- iv. The requisition and invoice are then submitted to the County Judge no later than the next workday after receiving the invoice or sales ticket;
 - v. A confirming purchase order, bearing the same number as the one originally issued, will be sent to the vendor by Purchasing. All copies of the purchase order will be stamped "CONFIRMED"
 - vi. When an emergency arises during a time when the County Judge's office is closed (weekdays after 5:00pm, weekends and holidays), the using department will follow the same procedure above except that the purchase order number cannot be obtained from the County Judge, cannot be given the vendor at the time of purchase and cannot be approved by the County Judge prior to purchase;
 - vii. As soon as the ticket/invoice is received by the using department, it should be attached to a completed requisition form with a purchase order and sent to the County Judge the next working day.
 - viii. The requisition should be marked in the upper part as follows: "THIS WAS AN EMERGENECY PURCHASE WITHOUT A PURCHASE ORDER NUMBER"
 - ix. Failure to comply with the requirements of this section will result in the invoice being denied approval for payment.

XIV. Consequences

- a. Any commitment for commodities or services made in the name of Chambers County by any department head/official not authorized by this policy shall be void.
- b. V.T.C.A., Local Government Code Chapter 262 Subchapter C, elided as the County Purchasing Act states: "A county officer or employee commits an offense if the officer or employee knowingly or intentionally makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023.
- c. An offense under Section 262.023 is a Class B Misdemeanor, a final conviction under this subsection result in the immediate removal of the county officer or employee from the office or position. A county officer or employee knowingly or intentionally violates Subchapter C of the County Purchasing Act. An offense under the subsection is a Class C Misdemeanor.

XV. Addendum #1: Purchasing and Procurement Procedures for Federal Funds

- a. Chambers County is responsible for administering and implementing the Community Development Block Grant Program.
- b. Requesting funds for the Community Development Block Grant Program should coordinate all competitive bids and contracts through the Chambers County Economic Development Department. The County Judge is required to provide approval to initiate any activity and coordinate with the County Auditor for purchases made with Community Development Block Grant funds.
- c. For Community Development Block Grant Program projects, the Department of Economic Development will advertise the letting of a contract including the general conditions, time, and place of opening sealed bids.
- d. Chambers County has established procurement policies which are in compliance with federal procurement standards outlined in 2CFR 200.317 through 200.326 as well as Chambers County and Texas Local Government Code guidelines. These policies shall apply to any federally-funded procurement. The complete Procurement Policy Applicable to All Procurements Made with Federal Funds are attached as Appendix A.

XVI. Addendum #2: Purchasing and Procurement Procedures for Federal Department of Homeland Security (DHS) and Federal Emergency Management Agency (FEMA) Grants, including Disaster Response and Recovery Grants

- a. Chambers County is responsible for administering and managing any such grant and complying with the grant guidance as published by the Grantor.
- b. Chambers County Judge's Office of Disaster Recovery shall serve as coordination and approval for all non-law enforcement DHS and/or FEMA Grants.
- c. All DHS and FEMA Pre-disaster Grant applications shall be submitted to and approved by Commissioner's Court prior to submission.
- d. All procurement made under these federal grants, or with the expectation of receiving reimbursement funds from these grants, shall comply with Chambers County Purchasing Policy and the Texas Government Code(s) applicable to the purchase, i.e. Contracting, Professional Services, etc.

- e. All procurement made under these federal grants or with the expectation of receiving reimbursement funds from these grants, shall comply with 2 CFR200.317 – 326 and with 2CFR200 Appendix II, where applicable.

XVII. Addendum #3: Declared Disaster Purchasing and Procurement Procedures.

- a. Whenever the County Judge, Governor of the State of Texas, or President of the United States makes a Declaration of a State of Emergency or a Declaration of a Disaster, the County Judge, in his/her capacity as the Emergency Management Director and as authorized in Texas Government Code 418.1015, may suspend normal purchasing and procurement processes for the duration of any declared disaster, and modify or substitute alternative emergency procedures s/he determines are necessary to ensure effective operations of County emergency response and recovery.
- b. Unless otherwise ordered and modified by the County Judge, the following Disaster Purchasing and Procurement Policy shall be implemented for the duration of any declared state of emergency or disaster:
 - i. The County Finance Director or Budget Officer shall establish a Disaster Fund in the County Schedule of Accounts in the County Budget from which all approved disaster expenses, charges, purchases, rentals, leases and payroll shall be charged.
 - ii. The County Judge shall appoint a Logistics Officer to review and validate all disaster-related: purchases, equipment, services or materials rentals or leases, contracts and agreements, and any other purchase or expense, and to approve or reject their assignment to that Disaster Fund. Any expense not deemed valid for assignment to the Disaster Fund shall be charged to the requesting Department's current budget.
 - iii. County Employee Payroll expenses shall be processed through Human Resources, but only those personnel time and expenses determined to be Disaster-related may be charged to the Disaster Fund.

- iv. The County Logistics Officer shall provide to all Department Directors, a Resource Request form, as approved by the Judge, to ensure proper documentation of each Disaster-related expense, and which shall at least provide for: requestor, specific items & quantities, explanation/justification for disaster use, signature of Requestor, approval of Logistics Officer, approval of County Finance Officer or Judge, and any other such information as the Logistics Officer deems is necessary.
- v. The Judge may designate a maximum expense amount that can be approved by the Logistics Officer without requiring the Finance Officer or Judge to approve, at his/her discretion.
- vi. This Resource Request form shall be IN ADDITION to the normal Purchase Request process and shall be for the sole purpose of determining and documenting approval of Disaster-related expense charges to the Disaster Fund.
- vii. The County Finance Officer, Purchasing Agent, or Treasurer shall not assign any cost, charge or expense to the Disaster Fund without the approval of the Logistics Officer.
- viii. Nothing in this section shall empower the Logistics Officer to approve or deny any purchase or procurement: only to determine whether or not an expense has met the requirements to be a valid disaster expense, documented as such and which may only then be charged to the Disaster Fund in the County Budget.

XVIII. References

- a. Purchasing Act, Texas Local Government Code, § 262 Subchapter C.
- b. Texas Comptroller Model Purchasing Manual for Texas Cities and Counties 2010.
- c. *Purchasing Act, Texas Local Government Code, § 262 Subchapter C.*
- d. **Texas Government Code 418**
- e. **Texas Government Code 433**
- f. *Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards – 2 CFR Part 200, 2018 and as may be amended*

g. *Texas Comptroller Model Purchasing Manual for Texas Cities and Counties 2010.*

THIS POLICY WAS CONSIDERED AND AMENDED, AS ORDERED BY VOTE OF THE COMMISSIONERS COURT OF CHAMBERS COUNTY, TEXAS ON JUNE 22, 2021.

Jimmy Sylvia, Chambers County Judge

**CHAMBERS COUNTY
PROCUREMENT POLICY APPLICABLE TO ALL PROCUREMENTS MADE WITH FEDERAL
FUNDS**

Adopted September 22, 2020

PREAMBLE

All procurements made by the CHAMBERS COUNTY ("COUNTY") involving the expenditure of Federal funds must be conducted in accordance with the procedures set forth in this Policy. This Policy is in accord with all applicable Federal, State, and local government statutes and regulations, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §§ 200.317 to 200.326.

It is the policy of the COUNTY to conduct all procurements in the highest ethical manner, and in accordance with all applicable laws and regulations. To the extent required by law and regulation, and the maximum extent practical, the COUNTY will conduct all procurement transactions in a manner providing full and open competition, consistent with the standards set forth 2 C.F.R. § 200.319.

Subject to specified cost thresholds and documented delegation of authority, all procurements will be reviewed by the County Purchasing Agent/Department to ensure compliance with this Policy.

I. SOLICITATIONS

Procurements subject to this Policy will be made on the basis of a written solicitation, after careful consideration by County Staff (with, as applicable, the support of a selection committee) of the needs of COUNTY and available resources. The written procedures in this Policy are intended to ensure that all solicitations meet the following Federal requirements as well as contracting best practices.

A. Clear Description

The solicitation must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. This description should include a written statement of work. 2 C.F.R. § 200.319(c)(1).

B. Nonrestrictive Specification

The description of the technical requirements must not contain features that unduly restrict competition. 2C.F.R. § 200.319(c)(1).

C. Qualitative Requirements

The description of the technical requirements 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. 2 C.F.R. § 200.319(c)(1). Product specifications should be limited to essential specifications only.

a. **Brand Name or Equal**

When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, "brand name or equal" descriptions may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors must be clearly stated. The need for a "brand name or equal" specification should be documented.

b. **Preference for Performance Specifications**

Product or service specifications based on performance, rather than designed specifications, are preferred. A performance specification describes an end result, an objective, or standard to be achieved, and leaves the determination of how to reach the result to the contractor. Performance specifications describe *what* the product should be able to do or the services to accomplish, without imposing unnecessarily detailed requirements on *how* to accomplish the tasks.

D. Requirements

The solicitation must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R. §200.319(c)(2). All solicitations for competitive proposals must notify offerors that the COUNTY reserves the right to award to other than the lowest-priced offeror. Generally, the COUNTY will make a best value determination, balancing cost against technical merits, in awarding competitive contracts.

E. Type of Federal Funding

The solicitation must acknowledge the source of the Federal funding for the contract, in compliance with the terms of its financial assistance award.

a. The solicitation should inform prospective contractors that they will need to comply with all applicable Federal Laws, regulations, Executive Orders and requirements affecting the procurement. As appropriate, specific flow-down requirements may be included in the solicitation itself, in any resulting contract, or incorporated by reference.

F. Contract Type

The solicitation should state the type of contract that will be awarded.

a. **Fixed Price**

A fixed price contract provides for a firm price that remains irrespective of the contractor's actual cost of performing the scope of work under the contract. The risk of performing the work, at the fixed price, is borne by the contractor. Fixed price contracts may include an economic price adjustment, incentives, or both.

b. **Cost Reimbursement**

Cost-reimbursement type contracts provide for payment of certain incurred costs to the extent provided in the contract. They normally provide for the reimbursement of the contractor for its reasonable, allocable, actual, and allowable costs, with an agreed-upon fee. There is a limit to the costs that a contractor may incur at the time of contract award, and the contractor may not exceed those costs without the COUNTY's prior approval. Cost allowability is determined by Federal regulations. There are many varieties of cost-reimbursement contracts, such as cost-plus- fixed-fee, cost-plus-incentive-fee, and cost-plus-award-fee. Because the COUNTY incurs more risk in a cost reimbursement contract, these types of contracts should only be entered into after a careful analysis of the benefits compared to other contract types.

c. **Time and Materials Contracts**

A time and materials type contract is a contract whose cost to the COUNTY is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. 2C.F.R. § 200.318(j)(1)(i) and (ii). This type of contract is used if no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

d. **Cost Plus Percentage of Cost**

The use of cost plus percentage of cost and cost plus a percentage of construction cost methods of contracting are prohibited.

G. Prohibitions

Certain provision that unduly restrict competition are prohibited. 2 C.F.R. § 200.319(a). The following are some examples of these prohibited provisions. Note that the provisions described below are not prohibited when they are improper or excessive. For example, some qualifications and experience may be required for a particular type of contract; only "excessive" or "unnecessary" requirements are not allowed:

a. **Excessive Qualifications**

Placing unreasonable requirements on firms in order for them to qualify to do business. 2 C.F.R. § 200.319(a)(1).

b. **Unnecessary Experience**

Requiring unnecessary experience. 2 C.F.R. § 200.319(a)(2).

c. **Unnecessary Bonding**

Requiring excessive bonding. 2 C.F.R. § 200.319(a)(2).

d. **Improper Qualification**

Using improper prequalification procedures that conflict with 2 C.F.R. § 200.319(d).

e. **Retainer Contract**

Making a noncompetitive solicitation only to a person or firm on retainer contract where that award is not for property or services specified for delivery under the scope of work of the retainer contract. 2 C.F.R. § 200.319(a)(4).

f. **In-State, Local, or Tribal Geographic Preferences**

Imposing prohibited in-state, local, or tribal geographic preferences that conflict with 2 C.F.R. 200.319(b).

g. **Organizational Conflicts of Interest**

Allowing entities to submit bids or proposals in response to the solicitation where there would be a prohibited organizational conflict of interest. 2 C.F.R. §200.319(a)(5).

II. METHODS FOR PROCUREMENT

Procurements shall be made using one of the following methods: (A) Micro-Purchases (B) Small Purchase procedures, (C) Competitive sealed bids, (D) Competitive negotiations, (E) Non-competitive negotiation. All procurements shall be made in accordance with these procedures.

A. Micro-Purchases

Purchases below **the Simplified Acquisition Threshold** may be awarded without soliciting competitive proposals if the COUNTY considers the price to be reasonable. Efforts will be made to get the lowest and best price, but written records of such efforts are not necessary. Procurements may not be disaggregated for the purpose of falling below the Micro-Purchase threshold.

B. Small Purchases

Purchases of supplies, equipment and services which cost below **\$50,000** require written supplier estimates but no formal is required. The COUNTY will solicit a verbal or written response from at least three (3) vendors and will document why the vendor was selected if it is not the lowest priced offeror. If no such responses are available, a statement explaining the procurement will be prepared and filed.

C. Competitive Sealed Bids

The use of sealed bids will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services, other than those personal (procuring the services of an individual for staff augmentation services) or professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal

services), exceeds **\$50,000**, an Invitation for Bids ("IFB") notice will generally be prepared. This notice will be published in the COUNTY newspaper of record and/or such other places as the COUNTY deems appropriate. This notice will appear at least fourteen (14) days before the due date for bid proposals. The COUNTY may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice. To the extent possible, COUNTY Staff is encouraged to maintain an open Bidders List.

The IFB will include a complete, accurate and realistic specification and description of the goods or services to be procured, any required bid deposit, the amount of a payment bond and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be used must be stated in the IFB.

Sealed bids will be opened in public at the time and place stated in the IFB. The bids will be tabulated by the TABULATOR at the time of bid opening. The results of the tabulation and the bid procurements will be examined for accuracy and completeness by the EXAMINER who will make recommendations to the COUNTY. In addition, the COUNTY shall determine that all firms are responsive and responsible. The COUNTY will make the decision as to whom the contract shall be awarded. After the bid award is made by the COUNTY, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

The COUNTY may cancel an Invitation for Bid or reject all bids if it is determined that such is in the best interests of CHAMBERS COUNTY. Bidders will be notified in writing of such cancellation or rejection. The COUNTY may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened. Bids which do not accept all terms and conditions of the IFB shall be deemed to be non-responsive and will be rejected. Any changes to the bidding terms and conditions shall be communicated to all bidders, and all bidders will have an equal chance to submit a bid responsive to those changed terms and conditions.

D. Competitive Negotiations

CHAMBERS COUNTY will use competitive negotiations, regardless of contract amount, upon a written determination that either of the following conditions apply:

- a. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, sealed bidding is not feasible); or
- b. The services to be procured are professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal services) in nature.

Competitive negotiations will proceed as follows:

1. Proposals will be solicited through advertisement [in](#) the COUNTY newspaper of record and/or such other places as the COUNTY deems appropriate; additionally, a Request for Proposal (RFP) may be prepared and mailed, emailed, or faxed to qualified vendors. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the applicable regulations. Requests for proposals will always include cost as a selection factor.
2. Award must be made to the offeror whose proposal is determined in writing by the COUNTY to be the most advantageous to the COUNTY with price and other factors considered. This evaluation and award process contemplates a balancing of cost and technical merit in arriving at a determination as to which proposal provides the best value to the COUNTY. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The selection committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. The COUNTY may publish a Request for Qualifications. RFQ's are handled in a similar method to RFP's with the exception that cost is not a factor in the initial evaluation. The selection committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the COUNTY will negotiate

cost. If the COUNTY is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The COUNTY will maintain a written record of all such negotiations.

E. Noncompetitive Negotiations

The COUNTY requires competitive bids for purchases of goods or services including consulting services) over **\$50,000**; however, some exceptions apply.

In some circumstances, when competition cannot be obtained or the situation necessitates the required number of competitive bids to be reduced, a Sole Source or Reduction Justification Form must be submitted. The following information is a guide for requesting the waiver or reduction of competitive bids on RFPs for goods or services greater than **\$50,000**. The COUNTY may purchase goods and services through non-competitive negotiations when it is determined in writing by the COUNTY that competitive negotiation or bidding is not feasible and that:

1. SOLE SOURCE DEFINITION AND CRITERIA

A single supplier that is exclusively capable of meeting the COUNTY's requirements within the time available, including emergency and other situations, which preclude conventional planning and processing. These situations include:

- a. **One-of-a-Kind/Specialized** – the commodity or service has no competitive product or must meet specialized seaport, boat or marine requirements, or specialized professional or technical services, and is available from only one supplier.
- b. **Compatibility** – the commodity or service must match an existing brand of equipment for compatibility and is available from only one vendor.
- c. **Replacement Part** – the commodity is a replacement part for a specific brand of existing equipment and is available from only one supplier.
- d. **Delivery Date** – only one supplier can meet necessary delivery requirements.
- e. **Emergency** – URGENT NEED for the item or service does not permit soliciting competitive bids; including purchases needed to address major facility failures, damages due to disasters, or purchases necessary to address immediate safety and security issues.
- f. The Federal or State awarding agency has authorized the particular type of noncompetitive negotiation.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The COUNTY must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

- F.** Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.

III. CONTRACTS

Generally, all procurement in excess of the Simplified Acquisition Threshold will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared.

- A.** All contracts will contain language which allows the COUNTY the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the COUNTY (on request) or any other documented matter which could cause a hardship for the COUNTY if a claim should arise or the work not be completed on schedule at the specified cost.
- B.** All contracts will contain a termination for convenience provision, which allows the COUNTY to cancel the contract without fault on the part of the contractor. In the event of a termination for convenience, the contractor will receive reimbursement and/or pro-rate payment for costs and work done until the point of termination, but not anticipated profits on the work that was cancelled. The termination provision will specify the procedures for the contractor to submit a claim for termination costs.

- C. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “Federally assisted construction contract” in 41 C.F.R. § 60-1.3 must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth in 2 C.F.R. §200.326. These provisions will be provided to all bidders

IV. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is not feasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to ensure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost, (including the issue of reasonableness of cost), rationale for method of procurement and selection of contract type, and basis for payment.

V. LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED AND SMALL BUSINESSES

All necessary affirmative steps will be taken and documented to solicit participation of small and minority businesses, women's business enterprises, and labor surplus area firms. Where possible and feasible, delivery schedules will be established and work will be subdivided to maximize participation by small businesses or minority- or women-owned businesses. Subdivided components will be bid as a separate contract. A list of locally owned, minority-owned, female-owned, and small businesses and also minority businesses located within the trade region shall be used when issuing IFBs, RFPs and RFQs. This list shall also be consulted when making small purchases. The COUNTY will use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce when appropriate. The successful bidder will be required to use these same criteria in selection of suppliers and subcontractors whenever possible.

VI. CODE OF CONDUCT

A. Conflict Of Interest

No COUNTY member, employee, consultant, elected official, appointed official or designated agent of the COUNTY will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the COUNTY, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms, or will otherwise benefit financially or otherwise from a contract award.

No COUNTY member, employee or designated agent of the COUNTY may acquire a financial interest in or benefit in any way from any activity which uses any Federal funding, nor shall they have any interest in any contract, subcontract or agreement for themselves or any family members.

NOTE: These rules apply to all named parties and shall be effective for the period of service and for one year after leaving said position (or office, in the case of elected officials).

B. Acceptance of Gratuities

No COUNTY member, employee or designated agent of the COUNTY shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. Penalties

Any COUNTY member, employee or designated agent of the COUNTY who knowingly and deliberately violates the provisions of this code will be open to civil suit by the COUNTY without the legal protection of the COUNTY. Furthermore, such a violation of these procurement standards is grounds for dismissal by the COUNTY (if an employee) or such sanctions as available under the law (if an elected official).

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the COUNTY.

VII. ADDITIONAL PROVISIONS

All COUNTY Federally funded contracts are subject to a variety of required statutes, regulations, and contract clauses. While it is the responsibility of

bidders and offerors to be aware of and comply with those requirements, the COUNTY staff shall include applicable requirements in all COUNTY contracts to the maximum extent possible, either in full text, via addendum or attachment, or by reference. The list below is not exhaustive, and other provisions may apply based on the type of work being performed and the dollar amount of the contract. The provisions below are common to many covered contracts:

A. Labor and Employment Laws and Regulations

A variety of construction and non-construction labor and employment laws and regulations are required as a condition of CHAMBERS COUNTY's Federal funding. These are assembled at 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, and include provisions related to Equal Employment Opportunity, Prevailing Wages, Anti-Kickback provisions, Overtime and Work Safety requirements, and a variety of whistleblower protections. In dealing with all potential bidders and offerors, COUNTY Staff should ensure that the applicable requirements are included in all solicitations and contracts. To the extent possible, COUNTY Staff should highlight these requirements to bidders and offerors unfamiliar with or inexperienced in Federally funded projects.

B. Rights to Inventions Made Under a Grant or Contract

If a contract awarded by the COUNTY may result in the creation of protectable intellectual property, including a patentable invention, copyrighted material, trade secret or technical data, or any other invention or discovery, the requirements of 37 CFR § 401 may apply.

C. Environmental Regulations

Contracts over **\$150,000** require the contractor to comply with Clean Air Act and Federal Water Pollution Control Act. Specific provisions and requirements are set forth in 2 C.F.R. Part 200, Appendix II.

D. Contracting with Suspended or Debarred Persons or Entities

The COUNTY shall not enter into any agreement with any person or entity subject to Federal Debarment or suspension, nor consent to a subcontract with any such person or entity. A list of all such persons or entities can be found at www.sam.gov. The COUNTY should obtain written certification from all contractors that they are not suspended or debarred from federal procurements.

E. Byrd Anti-Lobbying Amendment

The following provision should be included in each contract over **\$100,000** (Federal Byrd threshold):

“Contractors who apply or bid for an award of **\$100,000** or more shall 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 shall 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 recipient."

F. Timely Expenditures

In accordance with the Federal Register and to ensure timely expenditure of grant funds, The COUNTY will make every effort possible to submit reimbursement requests, at a minimum, quarterly. Additionally, the COUNTY will make every effort to ensure that reimbursement requests for incurred expenses are submitted no later than one hundred twenty (120) days from the date that the expense is incurred. The COUNTY shall make timely payments to its subcontractors in accordance with Chapter 2551 of the Texas Government Code.