

County of Galveston Purchasing Agent

Galveston County Purchasing Policies and Procedures Manual

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County of Galveston Purchasing Agent: Galveston County Purchasing Policies & Procedures Manual

This Galveston County Purchasing Policies and Procedures Manual is adopted by the Galveston County Purchasing Agent pursuant to the provisions of Texas Local Government Code § 262.011 to become effective upon the date of approval by the Galveston County Commissioners Court.

Galveston County Purchasing Agent Adoption, by:

Date of Adoption by Purchasing Agent:

A handwritten signature in black ink, appearing to read "Rufus G. Crowder", is written over a horizontal line.

January 23, 2018

Rufus G. Crowder, CPPO CPPB
Galveston County Purchasing Agent

Galveston County Commissioners Court Approval,
by:

Date of Approval by Galveston County
Commissioners Court:

A handwritten signature in blue ink, appearing to read "Mark A. Henry", is written over a horizontal line.

March 7, 2018

Hon. Mark A. Henry, County Judge

Attest:

Dwight Sullivan
County Clerk

By: A handwritten signature in black ink, appearing to read "Brandy Chapman", is written over a horizontal line.
Brandy Chapman Deputy



Table of Contents

Chapter One: Introduction.....	5
1.1 General Purpose.....	5
1.2 Laws Governing Purchasing.....	5
Chapter Two: Establishment and Authority of the Galveston County Purchasing Agent.....	7
2.1 Establishment and Authority.....	7
2.2 Checks and Balances.....	7
2.3 Duties.....	7
2.4 Sanctions.....	7
Chapter Three: General Statements.....	9
3.1 Mission.....	9
3.2 Purpose.....	9
3.3 Scope.....	9
3.4 Implementation.....	9
Chapter Four: Procurement Ethics.....	10
4.1 General Principles.....	10
4.2 Code of Ethics -Policy.....	10
4.3 General Ethical Standards.....	11
4.4 Gratuities and Kickbacks.....	11
4.5 Prohibition against Contingent Fees.....	11
4.6 Confidential Information.....	12
4.7 Conflict of Interest.....	12
Chapter Five: Vendor Qualifications and Insurance Requirements.....	14
5.1 Vendor Preliminary Qualifications.....	14
5.2 Insurance Requirements.....	14
Chapter Six: Purchasing Staff Guidelines.....	15
6.1 Judgment.....	15
6.2 Purchasing Authority.....	15
6.3 Obligation of Funds.....	15
6.4 Request for Acquisition.....	15
6.5 Procurement (P) Cards.....	16
6.6 Procurement Categories Dependent on Anticipated Price.....	16
6.7 Waiver of Procurement Category Requirements.....	17
Chapter Seven: Competitive Bidding Requirements.....	18
7.1 Reason for Competitive Bidding.....	18
7.2 Statutory Requirements for Competitive Bidding.....	18
7.3 Requests for Proposals (RFP) - Multistep Competitive Proposal Procedures.....	19
7.4 Solicitation specifications.....	20
7.5 Construction Contractor Oversight.....	21
Chapter Eight: General Guidelines Relating to Competitive Bidding.....	22
8.1 Determination of Lowest and Best Bid.....	22
8.2 Unit Price Bids.....	22
8.3 Tax Exempt.....	22
8.4 FOB Galveston.....	22
8.5 Sole Bids/Identical Bids.....	22
8.6 Exceptions to Competitive Bidding and Sole Source Items.....	22
8.7 Change Orders.....	23
Chapter Nine: Federally Funded Contracts – Procurement Standards and associated matters.....	24
9.1 General Procurement Standards.....	24
9.2 Sections 2 C.F.R. §§ 200.318 - 200.326.....	24
9.3 2 C.F.R. Part 200, Appendix II.....	30
9.4 Additional contract requirements.....	32
9.5 Additional FEMA Requirements.....	39
9.6 Appendix A, 44 C.F.R. Part 18 – Certification Regarding Lobbying.....	40
9.7 Requirements on FEMA funded projects from Hurricane Ike.....	41
9.8 Procurement Standards on U.S. Department of Housing and Urban Development (HUD).....	47

Chapter Ten: Professional and Consulting Services.....	55
10.1 Professional Services Procurement Act – Contracts Not Competitively Bid.....	55
10.2 Discretionary Exemption under the County Purchasing Act.....	56
10.3 Federal Requirements.....	56
Chapter Eleven: Acquisition, Transfer, and Disposal of County Owned Fixed Assets.....	57
11.1 Types of Personal Property Assets:.....	57
11.2 Acquisitions of New Assets	57
11.3 Asset Movement and Transfer.....	57
11.4 Asset Disposal	58
Chapter Twelve: Control Relating to County Owned Assets.....	59
12.1 General Principles.....	59
12.2 Semi-Annual Inventory	59
12.3 Asset Control of Each Department.....	60
12.4 Documentation Procedures for Movement of Fixed Assets	60
Chapter Thirteen: Travel Policy	62
13.1 County’s Travel Policy	62
13.2 Travel Requests.....	62
Chapter Fourteen: Procurement Card (P-Card) Program.....	63
14.1 General Purpose.....	63
14.2 Definitions	63
14.3 Eligibility to Participate.....	64
14.4 Responsibility & Authority.....	64
14.5 Conditions of Use.....	64
14.6 Duties Of Parties Involved.....	65
14.7 Procedures Overview	67
14.8 Rules & Regulations	68
APPENDICES	73

Chapter One: Introduction

1.1 General Purpose

The purpose of this Manual is to:

- help ensure compliance with the provisions of the County Purchasing Act, Subchapter C of Chapter 262 of the Local Government Code, and other applicable State and Federal requirements governing the acquisition of supplies, materials, equipment, and services by employees of Galveston County;
- establish, pursuant to Texas Local Government Code § 262.011(o), additional rules and regulations under which the purchase of such supplies, materials, equipment and contractual services occur; and
- Incorporate, for grants management and audit requirements on federally funded projects and contracts, additional procedures to govern the purchases of supplies, materials, equipment, and contracted services.

All employees whose duties include processing requisitions for the purchase of items, goods and services through the County Purchasing Agent's Office are required to comply with the policies and procedures set forth in this Manual. Accordingly, they must familiarize themselves with the provisions contained herein.

The provisions contained within this Manual are not intended to be all inclusive. Rather, it is intended to set forth policies and procedures relating to the most frequently discussed topics. Numerous statutes exist that mandate additional requirements and procedures. Should the terms of State or Federal law conflict with any provision contained within this Manual, the provisions of the State or Federal law will supersede the provisions of this Manual, unless required differently under Federal law, but only to the extent of the conflict.

Employees who have questions relating to either the provisions of this Manual or purchasing policies and procedures in general are encouraged to direct their questions to the Buyer who has been assigned to their department.

1.2 Laws Governing Purchasing

Laws, in addition to the County Purchasing Act, that may govern or impact purchasing in given circumstances include but are not limited to the following:

- a) Competitive Bidding on Certain Public Works Contracts, Subchapter B of Chapter 271 of the Texas Local Government Code;
- b) Contracting and Delivery Procedures for Construction Projects, Chapter 2269 of the Texas Government Code;
- c) Contracts with Governmental Entity, Nonresident Bidders, Subchapter A of Chapter 2252 of the Texas Government Code (does not apply to a contract involving federal funds, 2252.004);
- d) Disclosure of Certain Relationships with Local Government Officers, Chapter 176 of the Texas Local Government Code;
- e) Cooperative Purchasing Program, Subchapter F of Chapter 271 of the Texas Local Government Code;
- f) Disclosure of Interested Parties, Section 2252.908 of the Texas Government Code;
- g) Interlocal Cooperation Act, Chapter 791 of the Texas Government Code;
- h) Payment for Goods and Services (commonly known as the Prompt Payment Act), Chapter 2251 of the Texas Government Code;
- i) Prevailing Wage Rates for Construction of Public Works, Chapter 2258 of the Texas Government Code;
- j) Professional Services Procurement Act, Subchapter A of Chapter 2254 of the Texas Government Code;
- k) Public Property Finance Act, Subchapter A of Chapter 271 of the Texas Local Government Code;
- l) Public Works Performance and Payment Bonds, Chapter 2253 of the Texas Government Code;

- m) Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments, Chapter 171 of the Texas Local Government Code; and
- n) Texas Workers Compensation Act, Subtitle A of Title 5 of the Texas Labor Code.

Chapter Two: Establishment and Authority of the Galveston County Purchasing Agent

2.1 Establishment and Authority

On May 1, 1960, pursuant to the authority of Tex. Rev. Civ. Stat. art 1580 (codified in 1987, and such authority is now in Section 262.011 of the Texas Local Government Code), the Constitutional County Judge and the Presiding Judges of Galveston County established the Office of the County Purchasing Agent, which is also sometimes referred to as the Purchasing Department. Currently, the County Purchasing Agent's Office is established under and governed by Texas Local Government Code, Chapter 262, subchapter B. The County Purchasing Agent is answerable to the County Purchasing Board, which consists of three judges of the District Courts of Galveston County and two members of the Galveston County Commissioners Court.

2.2 Checks and Balances

The Purchasing Department is designed to be one leg of the "three-legged stool" of county government. The other two are the Commissioners Court, which is the governing body of the County that determines County policy largely through control of its budget, and the County Auditor who is appointed by the District Judges and who has the obligation to ensure the strict enforcement of state law and the duty to disapprove expenditures of county funds the County Auditor believes to be unlawful.

2.3 Duties

It is the duty of the Galveston County Purchasing Agent to make all purchases of supplies, materials, and equipment except those for which competitive bidding is required. It is further his or her duty to adopt rules and procedures necessary to implement the County Purchasing Agent's duties under State law. On those items that require a competitive bid, be it by hard bid (ITB), request for proposal (RFP), or a similar method, the County Purchasing Agent is charged with complying with the terms of the County Purchasing Act and with developing procedures that enable the County to also comply.

The Purchasing Agent is also required to contract for repairs to all Galveston County owned property except those contracts required by law to be made on competitive bid. The County Purchasing Agent is charged with maintaining an inventory of Galveston County property that is to be filed annually with the Galveston County Auditor. Currently, this is done in July. All surplus property must be transferred to the Purchasing Agent when not actually needed by any Galveston County Department.

2.4 Sanctions

It is unlawful for any Galveston County employee to make purchases other than through the Galveston County Purchasing Agent's Office with proper authorization in the form of a Galveston County Purchase Order or by the use of county purchasing/procurement P-Card. A violation of this provision, as provided by Texas Local Government Code §262.011(m) is a misdemeanor punishable by a fine of not less than \$10 or more than \$100. In accordance with 262.011(m), each act is a separate offense. Any attempted purchase made without proper authorization from the Purchasing Agent's Office will not be honored by Galveston County and payment thereof may become the personal responsibility of the individual employee making the commitment. In addition, the employee may be subjected to disciplinary proceedings and, should the Criminal District Attorney warrant such action necessary, criminal proceedings filed against them.

Additionally, in accordance with Section 262.034 of the Local Government Code:

- 262.034(a): A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of the County Purchasing Act; such offense is a Class B misdemeanor.
- 262.034(c): A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates the County Purchasing Act, other than by conduct described

by Subsection 262.034(a); the offense under this Subsection, 262.034(c), is a Class C misdemeanor.

Chapter Three: General Statements

3.1 Mission

The mission of the Galveston County Purchasing Agent's Office is to obtain quality items, goods, supplies, materials, equipment and services at the lowest and best price while operating in accordance with State and Federal laws that apply to county purchasing and with the highest standards of ethical conduct.

3.2 Purpose

The purpose of this Manual is to establish effective purchasing policies and procedures for the purchase and management of items, goods, supplies, equipment, and services consistent with best value principles and industry practices while adhering to applicable laws and regulations.

3.3 Scope

The scope of these policies and procedures apply to all purchase orders and other methods of payment as prescribed by the Galveston County Purchasing Agent and his/her authorized personnel.

3.4 Implementation

The Purchasing Agent is responsible for the implementation of the policies and procedures set forth in this Manual. The Purchasing Agent may also establish any additional procedures and/or rules the Purchasing Agent deems necessary to ensure compliance with the Galveston County Purchasing Agent's Office's Mission Statement.

Chapter Four: Procurement Ethics

4.1 General Principles

Galveston County is committed to the highest ethical standards. Therefore, it is a serious breach of the public trust to subvert the public purchasing process by directing purchases to certain favored vendors, or to tamper with the competitive bidding process, whether it's done for kickbacks, friendship or any other reason. Since misuse of the purchasing power of a local government carries criminal penalties, and many such misuses are from a lack of clear guidelines about what constitutes an abuse of office, the Code of Ethics outlined below must be strictly followed.

Galveston County also requires ethical conduct from those who do business with the County.

The Galveston County Purchasing Agent is committed to the highest ethical standards and believes that every one of his/her employees should be committed to the highest standard of conduct in the performance of their duties. As servants and stewards to the public, each employee of the Purchasing Department is expected to readily acknowledge that nothing less should be expected of them.

Public employment is a public trust. Individual and collective adherence to high ethical standards is central to the maintenance of public trust and confidence in government. It is a serious breach of the public trust for any public employee to subvert the public purchasing process by attempting to direct purchases to certain favored vendors. It is also a serious breach of the public trust for any such employee to alter, tamper with or design the competitive bidding process in any manner or for any reason that would hamper or defeat the requirement that all bidders be placed upon the same plane of equality.

As stated in the Galveston County Human Resources Manual, any Galveston County employee, whether he/she is an employee of the Purchasing Department or not, found in violation of Galveston County's ethics policy may be subjected to disciplinary proceeding up to and including termination. In addition, dependent upon the nature of the violation, an employee may be subjected to criminal prosecution. Please refer to the Galveston County Human Resources Manual for a more detailed discussion of the County's general ethical principles.

The Purchasing Department also requires ethical conduct from those who desire to become vendors or otherwise do business with Galveston County. Businesses who seek to become a vendor of Galveston County must complete the process as prescribed in Section 5.0, Vendor Qualification.

It is the intention of the Purchasing Agent to post the Purchasing Agent's policies relating to ethics in all bids and proposals issued to the public.

4.2 Code of Ethics –Policy

The following is adopted from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, Section 12-201 on Standards of Conduct:

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

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

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

4.3 General Ethical Standards

The following is derived from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, Section 12-204, Conflict of Interest:

It shall be a breach of ethics to attempt to realize personal gain through public employment with Galveston County by any conduct inconsistent with the proper discharge of the employee's duties.

It shall be a breach of ethics to attempt to influence any public employee of Galveston County to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Galveston County to participate directly or indirectly in a procurement when the employee knows that:

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

If a potential conflict of interest, or actual conflict of interest, exists or is later discovered, the employee shall promptly notify the Purchasing Agent in writing and the employee shall remove him/her self from the County procurement.

4.4 Gratuities and Kickbacks

The following is derived from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, Section 12-206, Gratuities and Kickbacks:

- (1) **Gratuities.** It shall be a breach of ethics for any person to offer, give, or agree to give any employee or former employee of Galveston County, or for any employee or former employee of Galveston 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 part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or bid pending before this government.
- (2) **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 Galveston County, or to any person associated therewith, as an inducement for the award of a contract, subcontract or order.
- (3) **Contract Clause.** The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation by Galveston County.

4.5 Prohibition against Contingent Fees

The following is derived from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, Section 12-207, Prohibition Against Contingent Fees:

- (1) **Contingent Fees.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Galveston County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. .
- (2) **Representations of Contractor.** All prospective contractors, by signing and submitting their respective bid, proposal, or qualifications, represent that they have not retained anyone in violation of the above section prohibiting contingent fees. Additionally, by the acceptance of the Purchase Order and/or the furnishing of goods or services pursuant to the Purchase Order, all vendors of Galveston County represent that they have not retained anyone in violation of the prohibition against contingent fees set forth in Subsection (1).
- (3) **Contract Clause.** The representation that contractor has not retained anyone in violation of Subsection (1) shall be conspicuously set forth in every contract and solicitation of Galveston County.

4.6 Confidential Information

- (1) **ABA 2000 Model Code.** The following is derived from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, Section 12-209, Use of Confidential Information:

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

- (2) **Solicitation and Proprietary Information.** Employees shall keep vendor proposal information obtained during the course of a solicitation confidential until after contract award and execution. Additionally, employees shall keep the proprietary information of vendors and prospective vendors confidential and this duty continues to exist even after the award and execution of contract. To facilitate compliance with confidentiality each member of an evaluation committee shall be required to sign a confidentiality agreement or memorandum. Failure to comply with confidentiality requirements may compromise a procurement and result in the cancellation of a procurement.

4.7 Conflict of Interest

- (1) Employees shall avoid any activity that would create a conflict of interest. Conflicts exist in any relationship where the County's best interests 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.
- (2) **Perception.** Employees shall avoid the appearance of unethical or compromising practices in relationships, actions, and communications associated with County.

- (3) The breaches described in Sections 4.1 through 4.6 constitute conflicts of interests.
- (4) Employees will keep proposers and vendors proprietary information confidential. Employees will keep Galveston County's procurement information obtained through an RFP, RFQ, or ITB confidential to the extent allowed by State and Federal law.
- (5) Employees will not solicit or accept money, loans, gifts, favors, or anything of value from present or potential vendors. Provided however, that edible goods with a value of less than \$25.00 may be acceptable from present vendors if the edible goods are shared with the entire staff of the department, if it will not influence or appear to influence a purchasing decision, if the employee has not solicited the item, and if the vendor is not or will not be a vendor on a contract involving federal funds. Even nominal value gifts from vendors on contracts involving federal funds are prohibited and shall not be allowed. If anyone is in doubt as to whether a transaction complies with this policy, the individual should disclose the prospective transaction to the Purchasing Agent for interpretation.
- (6) Violations of State and/or Federal law pertaining to public employees and that pertain to or influence procurement decisions constitute conflicts. These statutes are outlined in the Galveston County Human Resources Policy Manual, Chapter HR018- Ethics.
- (7) Federal requirement adopted. In accordance with requirements of Federal law, the following constitute conflicts of interests and are prohibited:
 - (a) No member of the County's governing body, and no employee, officer, or agent of the County shall participate in the selection or in the award of administration of a subcontract supported by grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when: 1.) the employee, officer, or agent, 2.) any member of his or her immediate family, 3.) his or her partner, or 4.) any organization which employs, or is about to employ any of the above; has a financial or other interest in the firm or person selected to perform the subcontract. Further, the County shall comply with Chapter 171 of the Texas Local Government Code and 24 C.F.R. § 570.489(h).
 - (b) In all cases not governed by Subsection (a) of this Section, no person specified in subsection (c) of this Section, who exercises any functions or responsibilities in connection with the planning and carrying out of the project, or who are in a position to participate in decision making process or gain inside information with regard to activities under this Agreement, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties during their tenure or for (1) year thereafter.
 - (c) The conflict of interest provisions of Subsection (b) apply to any person who is an employee, agent, consultant, officer, elected official, or appointed official of the County or of the Contractor.
- (8) Violations of the Code of Ethics and Conflicts of Interests may disqualify a vendor from consideration of award of contract, serve as grounds for the termination of contract, and depending on the violation may be criminally sanctioned against the employee, official, and/or vendor. Anyone becoming aware of a violation of this Chapter 4 should report the violation to the Galveston County Purchasing Agent, who, at his sole discretion, may confer with the Galveston County Legal Department and/or the Galveston County Criminal District Attorney's Office regarding the violation.

Chapter Five: Vendor Qualifications and Insurance Requirements

5.1 Vendor Preliminary Qualifications

Parties seeking to obtain qualified vendor status with the County of Galveston must complete and return the forms contained in a Vendor Qualification Packet to the Purchasing Department, these include:

- **Form PEID:** Person /Entity Information Data
- **Form W-9:** Request for Taxpayer Identification Number and Certification
- **Form CIQ:** For vendor doing business with local government entity (*this form is to be returned to the County Clerk's Office...*)
- **Non-Collusion Affidavit**
- **Acknowledgment and Certification regarding Debarment, Suspension, and Other Ineligibility**

These forms and instructions relating to properly completing them can be obtained upon request from Purchasing Department staff or online by visiting:

<http://www.galvestoncountytexas.gov/PU/Pages/default.aspx>.

5.2 Insurance Requirements

Qualified Vendors performing work or providing services at or on any County owned facility and/or property are required to maintain, at minimum, the following insurance:

- a policy of third party liability and property damage insurance issued by a casualty company authorized to do business in the State of Texas, and in standard form approved by the Board of Insurance Commissioners' of the State of Texas, with coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of services rendered by the vendor and providing that the amount by reason of services limits shall be not less than the following sums:
 - a. for damages arising out of bodily injury to or death of one person in any one accident: \$100,000.00 Dollars;
 - b. for damages arising out of bodily injury to or death of two or more persons in any one accident: \$300,000.00 Dollars; and,
 - c. for any injury to or destruction of property in any one accident: \$100,000.00 Dollars.
- Workers' Compensation Insurance Policy if there is more than one employee, for all employees, including but not limited to full time, part time, and emergency employees employed by the Vendor. Alternatively, Vendors may establish a self-insurance program and, utilizing the services of a third party administrator, self-insure against Workers Compensation claims as is permitted by the Texas Workers Compensation Commission. But, Vendors may not elect to "go bare" for Workers Compensation purposes.

All policies and/or Certificates of Insurance, with the exception of Workers Compensation, shall include the County of Galveston as an additional named insured and waive subrogation.

Current insurance certificates certifying that such policies as specified above are in full force and effect must be furnished by Vendors to the Purchasing Department prior to the Vendor being permitted to perform work or to provide services. In the case of Workers Compensation, a letter certifying that the Vendor is self-insured will suffice.

On occasion, other forms of insurance and additional requirements may be required of Vendors as a condition of performing work or providing services, and the minimums specified herein shall not serve as the maximum insurance coverage and amounts that may be required. Such additional requirements, if any, will be found in the County's advertisement for bids, request for proposals, invitations to bid, or request for qualifications, as applicable. All vendors are required to familiarize themselves with any additional insurance requirements that may be contained in any such bid or proposal package.

Chapter Six: Purchasing Staff Guidelines

6.1 Judgment

Purchasing Department staff members authorized to make purchases on behalf of Galveston County are expected to determine, using their best judgment, the most appropriate and effective method of acquisition on each requisition or request for purchase. In so doing, they may authorize purchases from:

- Galveston County contracts currently in effect;
- contracts managed by the Texas Procurement and Support Services (TPASS) division of the Texas Comptroller of Public Accounts (*Texas Local Govt. Code 271.083*);
- contracts managed by the Department of Information Resources (DIR);
- contracts solicited, awarded, and managed by the Houston-Galveston Area Council (HGAC);
- contracts obtained through cooperative purchasing agreements and with other local governments or local cooperative organizations (*Texas Local Govt. Code 271.102*); or
- catalogue purchases and/or other authorized sources.

In exercising their judgment, the goal and objective of such staff members is to acquire the product or service that, in their opinion, meets the needs of the user department while ensuring that the method selected for acquisition achieves lowest cost and the best value per specifications, conformance to standards of ethical conduct, and compliance with all applicable laws, rules, and regulations.

On occasion, the judgment of the Purchasing Department staff member will not coincide with the judgment of the person making the requisition request. While every effort will be made to accommodate differences, the ultimate decision must lie with the Purchasing Agent.

6.2 Purchasing Authority

The primary authority to obligate Galveston County funds for the purchase of supplies, materials, equipment and services (including repairs and maintenance agreements) by means other than competitive bidding as set forth in the County Purchasing Act has been granted to the Purchasing Agent. The primary purchasing document used by the Purchasing Agent to secure such supplies and/or equipment is the Galveston County Purchase Order (PO).

6.3 Obligation of Funds

A Galveston Purchase Order represents a binding written agreement between the County and a seller that normally obligates Galveston County to pay for specified goods or services when they are delivered in accordance with the purchase order's (PO) order terms and conditions. The Purchasing Department issues all purchase orders. All other commitments, written or verbal, are unauthorized purchases and, in most instances, will not be binding on Galveston County. Upon discovery of an unauthorized purchase, the Purchasing Agent will notify both the Commissioners Court and the County Auditor for further action deemed necessary. In addition, should the Purchasing Agent feel that criminal activity of some sort has occurred, the Purchasing Agent will forward the information he/she has received to the Criminal District Attorney for such criminal action, if any, the Criminal District Attorney feels is warranted.

6.4 Request for Acquisition

Requests for acquisition made to Purchasing Staff must utilize the following procedures:

- a submittal of an online Requisition by the end user department is first made;
- a Requisition is required for all purchases regardless of dollar value, except those purchases made by authorized use of a County issued Procurement Card (P-Card);
- the elected official/department head, or duly authorized staff person(s) within these offices, prepares the online requisition;
- the requisition must be prepared as far in advance of the required delivery date to enable the proper procurement processes to be enacted and to allow time for delivery by the vendor;
- price quotations (whenever required for justification) must be submitted on forms provided by the Purchasing Department. These forms and their instructions can be obtained from

Purchasing Department staff or online by visiting
<http://www.galvestoncountytexas.gov/PU/Pages/default.aspx>.

Upon obtaining any additional required information a purchase order will be issued from a Purchasing Department buyer.

6.5 Procurement (P) Cards

Upon request, a County employee or Elected Official may be issued a procurement (P) card that will entitle him/her to make purchases. Departments and Elected Officials interested in utilizing a P-card are instructed to make a request for the issuance of such a card to the P-Card Procurement Administrator located in the Purchasing Department. In addition, they must adhere to and familiarize themselves with the terms and provisions of the Procurement Card Program set forth in the P-card Manual mentioned in **Chapter Thirteen: Procurement Card Manual**.

6.6 Procurement Categories Dependent on Anticipated Price

The Galveston County Purchasing Agent has established purchasing categories for the purchase of all goods and services based on the anticipated price of such good or service. Each category prescribes what information must be obtained from vendors, prior to the issuance by Purchasing staff, of a purchase order or via an alternate method of purchase, e.g. P-Card. The purchasing categories are:

- **Purchases less than \$1,500:** Purchasing Staff may exercise discretionary action during the purchasing and acquisition of such purchases.
- **Purchases \$1,500 or more but less than \$5,000:** A minimum of three telephone quotations are required. Upon approval of a Purchasing Staff member, the requesting department may solicit the quotations or leave the responsibility with the Purchasing Department. But, the requesting department remains responsible for initiating the requisition.
- **Purchases \$5,000 or more but less than \$50,000:** A minimum of three written quotations are required to be obtained on quotation forms furnished by the Purchasing Department. These forms can be obtained upon request from Purchasing Department staff or online by visiting <http://www.galvestoncountytexas.gov/PU/Pages/default.aspx>. Upon approval of a Purchasing Department Staff member, the requesting department may solicit the quotations or leave the responsibility with the Purchasing Department. If authorized to obtain the quotations, the requesting department must submit the written quotations to the Purchasing Department for review and approval prior to the issuance of a purchase order or an alternate method of payment, e.g. through the use of a P-Card. The requesting department remains responsible for initiating the requisition and requesting the method by which the purchase is to be made.
- **Purchases greater than \$50,000:** Formal sealed competitive written invitations to bids (ITB), Requests for Proposals (RFP), or Competitive Sealed Proposals, must be secured by the Purchasing Department in accordance with the terms and provisions of the County Purchasing Act. The County Purchasing Act is located at Subchapter C of Chapter 262 of the Local Government Code, currently Sections 262.021 through 262.037. Generally, competitive bids or requests for proposals are required although some exceptions exist. Should the Purchasing Agent determine that an exemption to competitive bidding or an RFP is warranted, he/she will make application for the granting of an exemption to the Galveston County Commissioners Court as authorized by law. The Purchasing Department and the end user department(s) will evaluate the bids received via competitive bidding or the RFP process and the quotes obtained via the exemption process to the competitive bidding statute that has previously been approved by the Commissioners Court. The Purchasing Agent will present the bids to the Commissioners Court for consideration. Authority to accept or reject the Purchasing Agent's recommendation lies exclusively with the Commissioners Court.

No Purchasing Staff employee may issue a Purchase Order to a supplier either verbally or in writing that varies from the requirements of the purchasing categories listed above unless the Purchasing Staff employee has obtained a waiver from his/her supervisor as set forth in the next paragraph.

6.7 Waiver of Procurement Category Requirements

The Purchasing Agent, at his/her discretion may, depending on the circumstances surrounding a request, authorize a waiver of all of the procurement category requirements, unless required differently under State law. The Assistant Purchasing Agent may, similarly authorize a waiver of one or more of the procurement category requirements up to \$50,000. A Senior Buyer may similarly authorize a waiver up to \$5,000. But, it is anticipated that such authorization will be granted on limited occasions due to special circumstances such as an emergency or unforeseeable circumstances.

Chapter Seven: Competitive Bidding Requirements

7.1 Reason for Competitive Bidding

Competitive bidding exists for good reason. Competitive bidding requires preparation of specifications against which bidders may bid, due advertisement of the intention of a county to receive bids and giving everyone an opportunity to bid. It contemplates bidding on the same undertaking upon each of the same material items covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality, that each bidder bid upon the same terms and conditions involved in all the items and parts of the contract, and that the proposal specify as to all bids the same or substantially similar specifications. Its purpose is to stimulate competition, prevent favoritism and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the taxpayers and property owners. There can be no competitive bidding in a legal sense where the terms of the letting of the contract prevent or restrict competition, favor a contractor or material man, or increase the cost of the work of the materials or other items going into the project.

7.2 Statutory Requirements for Competitive Bidding

Counties are generally required under the County Purchasing Act to receive bids by the competitive bidding process on a contract for services, equipment, goods, or other tangible or intangible property including insurance and high technology that are reasonably expected to exceed \$50,000 annually. But, it is also within the discretion and authority of the Commissioners Court to seek competitive bids even though under the circumstances the statutes do not require competitive bidding.

The Purchasing Department will assist any other Department with the preparation of specifications against which bidders may bid. But the final approval of the specifications will be subject to Commissioners Court approval. It is the intent of the Purchasing Department that the specifications:

- use intelligent and concise statements that serve the purpose of apprising potential bidders of exactly what Galveston County wants but not be so specific as to unnecessarily limit competition;
- be definitive enough to place all bidders on an equal footing;
- not contain any limiting provisions unless such limitations are for a legitimate purpose; and
- not unreasonably narrow the field of potential bidders.

This does not preclude the Purchasing Department from adopting conditional or alternative specifications so long as all bids received may be compared to one another.

Specifications that are ambiguous and leave to speculation or conjecture as to what is to be bid is not competitive bidding.

It is incumbent upon prospective bidders to thoroughly review all requests for competitive bidding in order to thoroughly familiarize themselves with the specifications and requirements of the request.

The Purchasing Department will advertise the request for competitive bids in accordance with the terms of the County Purchasing Act. The advertisement will be placed in a newspaper of general circulation in Galveston County. In addition, depending on the request being made, additional sources of advertisement, as determined necessary or prudent by the Commissioners Court will be utilized. For example, large or highly desirable tracts of real estate may be advertised in the Wall Street Journal, the Houston Chronicle or other nationwide advertisements.

Bids may be submitted by postal mail or hand delivered to the reception desk of the Purchasing Department. Bids will not be accepted by fax or electronic mail unless superseded by instruction(s) within the Invitation/Request for Bid or Request for Proposal document. Bids must be received and time stamped by procurement staff in the Purchasing Department prior to the specified date and time on the bid notice. Late bids will not be accepted and will be returned unopened. Only the time designated by the "time stamp" issued by the Purchasing Department will determine whether the bid was received at the proper time.

Competitive bids will be opened in the offices of the Purchasing Department in the presence of a representative from the County Auditor's office and, if available, a representative from the department that will be the primary end user of the goods or services being bid upon. Vendors are also encouraged to attend. All bids are read aloud and lump sum and/or unit pricing for each bid is recorded on bid tabulation forms. In the case of conflicting written words and figures, the amount stated in written word governs.

Submitted original bids and proposals remain the property of Galveston County after official bid openings. Opened bids will be kept on file in the Purchasing Department and available for inspection for anyone desiring to see them. Upon review and evaluation with representatives of the requesting department and such other County employees deemed advisable by the Purchasing Agent, the Purchasing Agent will present the bids to the Commissioners Court. The Commissioners Court will make the final determination in a publicly scheduled meeting as to which bidder will be awarded the contract or whether all bids should be rejected. Agendas for these meetings are posted weekly at the Galveston County Courthouse, 722 Moody Avenue (21st Street), Galveston, Texas, 77550 or may be found on the County's website which is www.galvestoncountytexas.gov and public meeting access is at: <http://www.galvestoncountytexas.gov/cc/pages/sire.aspx>. The Purchasing Agent, at his/her discretion, will attempt to notify all bidders in advance of the time, date and location of the Commissioners Court meeting. All bidders are encouraged to attend.

The Purchasing Agent will not present a bid to the Commissioners Court that is substantially or materially different from the specifications, nor may Galveston County negotiate privately with the low bidder. This does not preclude waiving immaterial specifications that are not essential to the contract.

Opened bids will be kept on file in the Purchasing Department and available for inspection for anyone desiring to see them in accordance with the County Purchasing Act and the Public Information Act.

7.3 Requests for Proposals (RFP) - Multistep Competitive Proposal Procedures

From time to time, if the Purchasing Agent determines that the preparation of detailed specifications would be impractical or involves the purchase of health insurance or high technology items, the Purchasing Agent shall notify the Commissioners Court of such determination. Upon a finding by the Commissioners Court that it is impracticable to prepare detailed specifications for an item to support the award of a purchase contract, after notification of such determination by the Purchasing Agent, the Purchasing Agent may use the multistep competitive proposal procedure provided by Local Government Code §262.0295. In addition, the County may utilize requests for proposals in accordance with Section 262.030 of the Local Government Code. Should this method of bidding be utilized, there will be a public notice of a Request for Proposal, commonly called an "RFP" that solicits quotations from vendors. The Purchasing Department will assist any other department with the preparation of the RFP, but the final draft is subject to approval by the Commissioners Court. In addition, the Purchasing Agent will recommend to the Commissioners Court whether to appoint an evaluation committee that may include one member of the Commissioners Court, and, if so, which other County employees should be made part of the evaluation. Proposals without a dollar bid may be turned in. Afterwards, bids with prices may be requested by Galveston County.

The Purchasing Department will advertise as required in a newspaper of general circulation in Galveston County per statutory requirements. It is incumbent upon prospective bidders to thoroughly review all RFP information in order to thoroughly familiarize themselves with the specifications and requirements of the request.

Proposals may be submitted by postal mail or hand delivered to the reception desk of the Purchasing Department. Proposals will not be accepted by fax or electronic mail unless superseded by instruction(s) within the RFP document. Proposals must be received and time stamped by procurement staff in the Purchasing Department prior to the specified date and time on the bid notice. Late proposals will not be accepted and will be returned. Only the time designated by the "time stamp" issued by the Purchasing Department will determine whether the bid was received at the proper time. Proposals will

be opened in a public forum on the date and time specified in the presence of a representative of the County Auditor's Office and, if available, a representative of the requesting department. Requests for Proposals and other Competitive Sealed Proposals are opened at the specified times and only the names of the proposers are read aloud and recorded unless the instructions provide otherwise or at the discretion of the Purchasing Agent. Submitted original bids/proposals shall remain the property of Galveston County after official bid openings.

The Purchasing Agent and the evaluation committee will, after a preliminary evaluation of the proposals, notify the Commissioners Court of those proposals that, as of the date of the notification, appear to be of the best value and most advantageous to Galveston County. In the case of conflicting written words and figures, the amount stated in written word governs. In addition, the Purchasing Agent will request Commissioners Court authorization to negotiate with those who submit the leading proposals. Upon finalization of negotiations, the Purchasing Agent shall present the proposals to the Commissioners Court for consideration of awarding the contract to the proposal determined to have the lowest evaluated offer resulting from negotiation, or specify that additional negotiations take place, or reject all proposals.

The Commissioners' Court will make their decision at a publicly scheduled meeting. Agendas for these meetings are posted weekly at the Galveston County Courthouse, 722 Moody Avenue (21st Street), Galveston, Texas, 77550, or may be found on the County's website, which is www.galvestoncountytexas.gov and public meeting access is at: <http://www.galvestoncountytexas.gov/cc/pages/sire.aspx>.

The Purchasing Agent, at his/her discretion, will attempt to notify all bidders in advance of the time, date and location of the Commissioners Court meeting will be considered. All proposers are encouraged to attend.

All proposals that have been submitted shall, subject to the both the prohibitions contained within the County Purchasing Act (e.g. trade secrets and confidential information contained in the proposals and identified as such) and the terms and provisions of the Texas Public Information Act, be available and open for public inspection but only after the final contract is awarded and executed.

7.4 Solicitation specifications

Formal solicitations are used when required under the County Purchasing Act, and thus generally for contracts anticipated to be greater than \$50,000.00, and may also be used for contracts anticipated to cost less than \$50,000.00. Formal solicitations include General Provisions and Special Provisions (which may also be called Specifications). Additional special provision sections may be included in the solicitations as necessary. General Provisions generally serve as the minimum requirements in procurement solicitations. Special Provisions are included to further define the services and/or goods sought and in clarifying the contracting opportunity and may, in some instances, supersede the General Provisions.

The primary purpose of any specification is to provide prospective vendors with criteria about the minimum standards acceptable for goods and/or services; the goal of the specifications, general and special, is to promote competitive bidding by providing the means to make an award to the lowest and best bid from a responsible bidder in conformity with State and/or Federal law, as applicable.

Provisions within the General Provisions address a variety of contractual terms and requirements and may be modified at the discretion of the Purchasing Agent without requiring an amendment to this Purchasing Policies and Procedures Manual.

Finally, different funding sources utilized by the Galveston County Commissioners Court in a given procurement may require different mandates than what are prescribed herein and may be mentioned in other sections of this Purchasing Policies and Procedures Manual. It is imperative that any vendor seeking to do business with Galveston County, familiarize themselves with the guidelines and statutes that govern competitive bidding prior to submitting offers.

7.5 Construction Contractor Oversight

Galveston County exercises regular observation and evaluation of construction projects as they proceed. Contractors are required to participate in a series of regular project meetings for the benefit of the Owner and the project.

Contractual agreements between Galveston County and architects and engineers spell out the duties of contract administration and observation the professional firms are responsible for. Specification sections within the construction documents set out the roles of Construction Manager and regular project meetings.

The following processes are adhered to but not limited to the following when providing oversight:

- Contractor agreements contain guidelines setting the compliance with submittals, performance, meetings, and “inspections” of the work.
- Projects are reviewed by the in-house Construction Manager, Architect, or Engineer in addition to the design professional hired for that project prior to authorization for any payment to the contractor for services in the scope of the Contractor’s agreement.
- Galveston County staff makes regular visits (not less than weekly) to construction projects to assure the work proceeds in accordance with agreements. This is supplemental to project observation services included in our agreement with design professionals.
- Design professionals are required to:
 - Review shop, laboratory, and mill tests of material and equipment and promptly report any deficiencies to the County;
 - Review submittals and shop drawings for compliance with original concepts and specifications;
 - Prepare meeting notes;
 - Assist the County in performance tests required by the specifications;
 - Conduct inspections to determine date or dates of substantial completion.

Chapter Eight: General Guidelines Relating to Competitive Bidding

8.1 Determination of Lowest and Best Bid

In accordance with Section 262.022(5-a) of the Local Government Code, "Lowest and Best" means a bid or offer providing the best value considering associated direct and indirect costs, including transport, maintenance, reliability, life cycle, warranties, and customer service after a sale.

In accordance with Section 262.030 of the Local Government Code, in requests for proposals the request must specify the relative importance of price and other evaluation factors and the award of contract shall be made to the responsible offeror whose proposal is determined to be the lowest and best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

In arriving at a determination of notification of the bids to be presented to the Commissioners Court, the Purchasing Agent and the Evaluation Committee, if one has been appointed, may also consider:

- price;
- the quality of the product or service;
- the adaptability of the product or service to the intended use;
- the ability, experience, integrity, and financial responsibility of the bidder/proposer; and
- such other evaluation criteria that are set forth in the invitation to bid or the RFP.

8.2 Unit Price Bids

Contracts for materials, equipment, supplies and construction of public works may be let on a unit price basis. If it is determined that unit price bids will be utilized the specifications will state the approximate quantities estimated on the best available information the Purchasing Department has at the time of the determination.

8.3 Tax Exempt

Galveston County, as a political subdivision of the State of Texas, is tax exempt.

8.4 FOB Galveston

All prices associated with all bids and proposals must be FOB (i.e. the price submitted includes all freight and shipping charges) to the shipping destination in Galveston County.

8.5 Sole Bids/Identical Bids

On occasion, when a request for bids or a RFP is issued, the County may receive only one response. Should this occur, the Purchasing Agent will attempt to determine the reason(s) behind the lack of interest from the public and whether there might be greater interest generated were the competitive bidding process to begin anew. Based on his/her findings, the Purchasing Agent will notify the Commissioners Court of the single bid and the Commissioners Court will decide whether to accept the bid/proposal or reject it and order the process to begin again.

If two responsible bidders submit the lowest and best bid with equal terms and conditions, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge.

8.6 Exceptions to Competitive Bidding and Sole Source Items

The County Purchasing Act gives the Commissioners Court the discretion to grant an exemption from competitive bidding, e.g. in cases of emergency or public calamity, personal or professional services, land or right of way acquisitions, etc. Numerous exceptions are permitted as set forth in the County Purchasing Act or, if applicable, in Section 271.056 of the Local Government Code. In addition, competitive bidding is not required in the event there is only supplier who furnishes the item.

The Purchasing Agent will, upon request of a requesting department accompanied with written documentation, make a preliminary determination whether an exception or a sole source vendor exists. If, in the opinion of the Purchasing Agent the request is legitimate, the Purchasing Agent will notify the Commissioners Court and the Commissioners Court will decide whether to grant the exemption and to purchase the item from the sole source. The final decision as to whether or not to grant the exemption or to purchase from a sole source or other permitted exemption lies with the Commissioners Court.

8.7 Change Orders

If it becomes necessary to make changes in plans, specifications, or proposals after a contract has been made or if becomes necessary to increase or decrease the quantity of items purchased, the Commissioners Court may make the changes as long as any increase in the total contract price can be made from available funds. Such changes will be made via a change order.

All requests for a change order must be submitted by the requesting department or the vendor to the Purchasing Agent for review and recommendation to the Commissioners Court. However, in accordance with Section 262.031 of the Local Government Code, the original contract price may not be increased by more than 25% unless the change order is necessary to comply with a federal or state statute, rule, regulation or judicial decision enacted, adopted, or rendered after the contract was made. Also, the original contract price may not be decreased by 18% or more without the consent of the contractor.

Chapter Nine: Federally Funded Contracts – Procurement Standards and associated matters

9.1 General Procurement Standards

Depending on the specific funding source of the procurement request, solicitation efforts by Galveston County utilizing Federal funding are subject to additional procurement standards. **2 CFR PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS, and 24 CFR 85.36 – PROCUREMENT (U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD))** affect or may affect procurement requirements and mandate various contract terms. The foregoing listing is not exhaustive.

***Special Note:** As well, relevant procurement standards on previous disaster recovery assistance projects may be found at 44 C.F.R. 13.36 (a)-(i) (States, local, and tribal governments), or other sources.*

Procedures for Federally funded solicitations must include all required Federal clauses and language.

9.2 Sections 2 C.F.R. §§ 200.318 - 200.326.

These sections impose requirements for federally funded contracts across a broad range of granting agencies. The County, a non-Federal entity and generally a subrecipient in these grant programs, is subject to these requirements. Sections 200.318 through 200.326, as such regulations exist on the date of the Purchasing Agent's adoption of these policies, follow:

2 C.F.R. § 200.318. General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(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.

(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 § 200.213 Suspension and debarment.

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

(j)

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

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(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.

78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 43309, July 22, 2015; 80 FR 45395, July 30, 2015

2 C.F.R. § 200.319. Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. 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.

(b) 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.

(c) 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.

(d) 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.

78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014

2 C.F.R. § 200.320. Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (\$200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). 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 bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

- (1) In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) 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.
- (2) If sealed bids are used, the following requirements apply:
 - (i) Bids must be solicited from an adequate number of known suppliers, 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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
 - (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor 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 are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015

2 C.F.R. § 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 (1) through (5) of this section.

69 FR 26280, May 11, 2004; 78 FR 78608, Dec. 26, 2013, unless otherwise noted

2 C.F.R. § 200.322. 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.

78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014

2 C.F.R. § 200.323. 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—Cost Principles 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.

69 FR 26280, May 11, 2004; 78 FR 78608, Dec. 26, 2013, unless otherwise noted

2 C.F.R. § 200.324. 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.

69 FR 26280, May 11, 2004; 78 FR 78608, Dec. 26, 2013, unless otherwise noted

2 C.F.R. § 200.325. 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 obligations 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.

69 FR 26280, May 11, 2004; 78FR 78608, Dec. 26, 2013, unless otherwise noted

2 C.F.R. § 200.326. Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

69 FR 26280, May 11, 2004; 78 FR 78608, Dec. 26, 2013, unless otherwise noted

9.3 2 C.F.R. Part 200, Appendix II

2 C.F.R. Part 200, Appendix II is also applicable, and requires as follows:

2 C.F.R. Part, 200, Appendix II

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 currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

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

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

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

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

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a

contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

(J) See §200.322 Procurement of recovered materials.

78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014

9.4 Additional contract requirements Remedies.

a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) 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. See 2 C.F.R. Part 200, Appendix II, A.

b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

Termination for Cause and Convenience.

a. 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. See 2 C.F.R. Part 200, Appendix II, ¶ B.

b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

Equal Employment Opportunity.

a. Standard. 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 include the equal opportunity

clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. 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 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.

b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause: “During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or

suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

Davis Bacon Act and Copeland Anti-Kickback Act.

a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.

b. 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 at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

c. 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.

d. 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.

e. In contracts subject to the Davis-Bacon Act, 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 at 29 C.F.R. 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 Copeland Anti-Kickback 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 FEMA.

f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback Act." However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

"Compliance with the Copeland "Anti-Kickback" Act.

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12."

Contract Work Hours and Safety Standards Act.

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. Where applicable (see 40 U.S.C. § 3701), 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 at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, E.

c. Under 40 U.S.C. § 3702, 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.

d. 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.

e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

"Compliance with the Contract Work Hours and Safety Standards Act"

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

Rights to Inventions Made Under a Contract or Agreement.

a. Stafford Act Disaster Grants. This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households - Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."

b. If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity 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 non-Federal entity must comply with the requirements of 37 C.F.R. 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 FEMA. See 2 C.F.R. Part 200, Appendix II, F.

c. The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

Clean Air Act and the Federal Water Pollution Control Act.

Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor 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 FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

"Clean Air Act"

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

"Federal Water Pollution Control Act"

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA."

Debarment and Suspension.

a. Applicability: The federal debarment and suspension provisions apply to all federal granting agencies.

b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual Chapter IV, 6.d, and Appendix C, 2 [hereinafter PDAT Supplement]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that 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. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; PDAT Supplement, Chapter IV, 6.d and Appendix C,

d. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any nonprocurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipient.

e. Specifically, a covered transaction includes the following contracts for goods or services:

- (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
- (2) The contract requires the approval of FEMA, regardless of amount.
- (3) The contract is for federally-required audit services.

(4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

f. The following provides a debarment and suspension clause. It incorporates an optional method of assurances that contractors are not excluded or disqualified:

"Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

Byrd Anti-Lobbying Amendment.

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; PDAT Supplement, Chapter IV, 6.c; Appendix C, ¶ 4.

c. 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. See PDAT Supplement, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause: "Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

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."

Procurement of Recovered Materials

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. 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, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; PDAT Supplement, Chapter V, ¶ 7.

c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. 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 by 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.

d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA designate items, is available at EPA’s Comprehensive Procurement Guidelines web site,

[https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program.](https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program)”

9.5 Additional FEMA Requirements

a. The Uniform Rules authorize FEMA to require additional provisions for nonfederal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

b. Changes. To be eligible for FEMA assistance under the non-Federal entity’s FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records. All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

DHS Seal, Logo, and Flags

a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).

b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.”

Compliance with Federal Law, Regulations, and Executive Orders

a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

No Obligation by Federal Government

a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

Program Fraud and False or Fraudulent Statements or Related Acts

a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

9.6 Appendix A, 44 C.F.R. Part 18 – Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000). The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official
Name and Title of Contractor's Authorized Official
Date

9.7 Requirements on FEMA funded projects from Hurricane Ike 44 CFR 13.36 – Procurement

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and

subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase 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.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are 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.

(7) Grantees and subgrantees are 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.

(8) Grantees and subgrantees will make awards 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.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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.

(10) Grantees and subgrantees will use time and material type contracts only—
(i) After a determination that no other contract is suitable, and
(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will 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 grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:
(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 13.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local 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 criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall 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, shall 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 equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
- (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will 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, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed—*

(1) *Procurement by small purchase procedures* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) *Procurement by sealed bids (formal advertising)*. 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 bid method is the preferred method for procuring construction, if the conditions in § 13.36(d)(2)(i) apply.

- (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 and 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) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (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 shall 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.

(3) **Procurement by *competitive proposals*.** The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- (ii) Proposals will be solicited from an adequate number of qualified sources;
- (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor 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 are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
 - (A) The item is available only from a single source;
 - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (C) The awarding agency authorizes noncompetitive proposals; or
 - (D) After solicitation of a number of sources, competition is determined inadequate.
 - (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
 - (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will 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 will 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.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see § 13.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

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

(g) Awarding agency review.

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document.

However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

- (i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
- (ii) 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; or
- (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
- (iv) The proposed award 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
- (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

- (i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
- (ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall 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 his bid, execute such contractual documents as may be required within the time specified.

(2) *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 obligations under such contract.

(3) *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.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
 - (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
 - (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
 - (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)
 - (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
 - (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
 - (7) Notice of awarding agency requirements and regulations pertaining to reporting.
 - (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
 - (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
 - (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
 - (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
 - (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
 - (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr.19, 1995]

9.8 Procurement Standards on U.S. Department of Housing and Urban Development (HUD) 24 CFR 85.36 - Procurement Standards

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and sub grantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

- (1) Grantees and sub grantees **will use their own procurement procedures** which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- (2) Grantees and sub grantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (3) Grantees and sub grantees will maintain a written code of standards of conduct governing the

performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or sub grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or sub grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Grantee and sub grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and sub grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and sub grantee procedures will provide for a review of proposed procurements to avoid purchase 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.

(5) To foster greater economy and efficiency, grantees and sub grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and sub grantees are 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.

(7) Grantees and sub grantees are 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.

(8) Grantees and sub grantees will make awards 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.

(9) Grantees and sub grantees **will maintain records** sufficient to detail the significant history of a 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.

(10) Grantees and sub grantees will use time and material type contracts *only* -

- (i) After a determination that no other contract is suitable, and
- (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and sub grantees alone will 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 grantee or sub grantee of any contractual responsibilities under its contracts. **Federal agencies will not substitute their judgment for that of**

the grantee or sub grantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and sub grantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protester must exhaust all administrative remedies with the grantee and sub grantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

- (i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
- (ii) Violations of the grantee's or sub grantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or sub grantee.

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

(2) Grantees and sub grantees will conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-State or local 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 criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall 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, shall 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 equal description** may be used as a means to define the performance or other salient requirements of a procurement. **The specific features of the named brand which must be met by offerors shall be clearly stated;** and
- (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and sub grantees will ensure that all pre qualified 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, grantees and sub grantees will not preclude potential

bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed -

(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procurements are used, price or rate quotations will be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). 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 bid method is the preferred method for procuring construction, if the conditions in 85.36(d)(2)(i) apply.

(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) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(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 shall 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.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and sub grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and sub grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor 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 are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

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

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.

(C) The awarding agency authorizes noncompetitive proposals; or

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

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

(iii) Grantees and sub grantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and sub grantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

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

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

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

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

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract Cost and Price

(1) Grantee and sub grantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and the sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price on a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will 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 will 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.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (24 C.F.R. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of contracting shall not be used.

(g) Awarding agency review.

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

(2) Grantees and sub grantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when:

- (i) A grantee's or sub grantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
- (ii) 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; or
- (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a brand name product; or
- (iv) The proposed award 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
- (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or sub grantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or sub grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(ii) A grantee or sub grantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self certification procedure, awarding agencies may wish to rely on written assurances from the grantee or sub grantee that it is complying with these standards. A grantee or sub grantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or sub grantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall

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 his bid, execute such contractual documents as may be required within the time specified.

(2) 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 obligations under such contract.

(3) 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.

(i) Contract provisions.

A grantee's and sub grantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or sub grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub grantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

Chapter Ten: Professional and Consulting Services

10.1 Professional Services Procurement Act – Contracts Not Competitively Bid

In addition to the Commissioners Court's discretion to grant an exemption to the requirement of competitive bidding due to the professional services exemption under the County Purchasing Act, the Professional Services Procurement Act prohibits a county from employing professional services such as licensed physicians, architects, certified public accountants and registered engineers on the basis of competitive bids submitted for the contract or for the services. Thus, there are two kinds of professional services – 1.) those listed within the Professional Services Procurement Act (which are identified below), and 2.) those professional services that may or may not be in the list below, but that the Commissioners Court finds constitute professional services in compliance with the County Purchasing Act.

Under the Professional Services Procurement Act, for the services covered under that Act, the County shall make the selection and award of contract:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

The Professional Services Procurement Act is codified at Chapter 2254 of the Texas Government Code.

Professional services under the Professional Services Procurement Act are defined at Subsection 2254.002(2) of the Government Code, and mean services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;
- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

In accordance with Section 2254.004 of the Government Code, in procuring architectural, engineering, or land surveying services, a governmental entity shall:

- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the governmental entity shall:

- (1) formally end negotiations with that provider;
- (2) select the next most highly qualified provider; and
- (3) attempt to negotiate a contract with that provider at a fair and reasonable price.

The governmental entity shall continue this process to select and negotiate with providers until a contract is entered into.

The professional fees under the contract may not exceed any maximum provided by law.

Any contract awarded a professional who is listed as such under the Professional Services Procurement Act on the basis of competitive bids is void against public policy. Accordingly, it is the policy of the Purchasing Agent that contracts that are entered into that require professional services are negotiated by the end user, County Legal, and, if requested, the Purchasing Agent.

10.2 Discretionary Exemption under the County Purchasing Act

The County Purchasing Act gives the Commissioners Court the discretion to grant an exemption by order from competitive bidding for professional services. This exemption is located at Section 262.024(a)(4) of the Texas Local Government Code.

10.3 Federal Requirements

Notwithstanding the foregoing Sections 10.1 and 10.2, contracts funded through Federal grants generally require the contract to be procured through competitive bidding and the only exception from such requirements applies to the services of an architect or an engineer acting within their field. The County, a non-federal entity and generally a subrecipient, may be under different requirements than an agency of the State of Texas pertaining to professional services and the requirement to procure such services, other than architects/engineers acting within their field, by competitive bidding, rather than through request for qualifications.

Chapter Eleven: Acquisition, Transfer, and Disposal of County Owned Fixed Assets

11.1 Types of Personal Property Assets

Fixed Asset - tangible property (something one can touch or see) which is expected to be useful to the County for a time greater than one (1) year and has a cost of at least \$5,000.00. Examples of fixed assets include machinery, automotive vehicles, equipment, buildings, high technology items and improvements to buildings.

Fixed Asset Maintenance Improvement (FAMI) - Normal maintenance and repair is not considered a fixed asset. But, if the maintenance or repair is substantial and drastically extends the life of the asset, it should be capitalized as a FAMI.

Lost or stolen Assets - those fixed assets that are missing and considered unrecoverable.

Salvage Property - personal property that, because of use, time, or accident, is so worn, damaged, or consumed, it has no value for the purpose for which it was originally intended, but does otherwise have value.

Surplus Property - personal property, other than salvage, not currently useful, but considered to have future usefulness, either as originally intended or otherwise.

11.2 Acquisitions of New Assets

a) Purchases:

The requesting department must submit an electronic purchase requisition to the Purchasing Department for processing. The requisition request must include quantity, unit cost, unit measure, product description, specifications, requested delivery date, and delivery instructions. Once the requisition is properly routed, completed and approved a purchase order will be issued for this asset. At the time the purchase order is issued, the PO module "flags" the item as a Fixed Asset purchase so that the asset receiving procedures will be triggered. The department must then notify the Purchasing asset coordinator upon receipt of a fixed asset and forward all associated documentation to the Purchasing asset coordinator for processing. Prior to placing the asset in service, the custodial department must properly tag and document receipt of the asset.

b) Donations:

The person/entity donating the asset must provide documentation of ownership and submit a written statement of donation to the Purchasing asset coordinator. All donations must be approved by the Commissioners Court before being placed in the County's inventory.

c) Seizures:

On occasion, Galveston County law enforcement agencies acquire automobiles, boats or other items that ultimately become Fixed Assets through what is commonly called the U.S. Department of Justice Federally Forfeited Property Program. All such assets must, upon acceptance by the Commissioners Court be inserted into the FA module by the Purchasing asset coordinator as a county owned fixed asset.

11.3 Asset Movement and Transfer

a) Transfer of Assets:

The Purchasing Agent is authorized by the Commissioners Court to transfer supplies, materials, and equipment among the various County departments. Non-fixed asset property moves are documented within Facilities' online ticket tracking software. Fixed asset transports from location to location require the notification of the Purchasing asset coordinator who will perform the update of location in the financial system. Custodial transfers of assets from one

department/division to another must be documented with Purchasing form **FA-02, Transfer** which must be sent to the Purchasing asset coordinator. The transfer will be completed and filed with the asset record within 5 business days.

11.4 Asset Disposal

a) Salvage and surplus assets and property:

Salvage Property or Surplus Property must be reported on **Form FA-03, Asset Disposal Report (see Appendix)** and forwarded to the Purchasing asset coordinator for instructions on the proper disposal method and for documentation purposes. Facilities facilitated movements of assets will be documented within Facilities' online ticket tracking software. Actual disposal of assets will be accomplished through a disposal method as prescribed by the Purchasing Agent upon approval by the Commissioners Court. These methods may include but not be limited to local public auctions, internet (online) auctions, donations to civic or charitable organizations, and trade-in. County employees are eligible to purchase Salvage Property or Surplus Property. Contact the Purchasing asset coordinator for details.

b) Lost or Stolen Fixed Assets:

Lost assets must be reported immediately to the Purchasing Agent by the Elected/Appointed Official, or the Department Head. Reports of lost assets must be immediately made on **Form FA-03, Asset Disposal Report** by the Elected or Appointed Official or Department Head and sent to the Purchasing asset coordinator (who will forward a copy to IT if appropriate) and the County Auditor. Reports of theft of Fixed Assets must be immediately made on **Form FA-03, Asset Disposal Report** by the Elected or Appointed Official or Department Head and sent to the Purchasing asset coordinator who will update the fixed asset status to AD- awaiting disposal. In addition, the Elected Official or Appointed Official or the Department Head must report the theft to the proper law enforcement agency and submit a copy of the offense report to the Purchasing asset coordinator. It will be removed from the department's asset custody report by the Purchasing asset coordinator after the proper documentation is received and filed by Commissioners Court.

Chapter Twelve: Control Relating to County Owned Assets

12.1 General Principles

Since all assets belonging to Galveston County are publicly and not privately owned, it is necessary to provide a basic understanding of the policies associated with County owned assets. Essentially, all Elected and Appointed Officials, Department Heads, and employees share in the responsibility of accounting for, using, and properly maintaining all county buildings, equipment, and furnishings.

As previously stated in the opening section of this Policy and Procedures Manual, and in accordance with Section 262.011(i) of the Local Government Code, the Purchasing Agent is charged with maintaining an inventory of Galveston County property that is filed annually with the Galveston County Auditor. In addition, in accordance with Section 262.011(j) of the Local Government Code, all surplus property must be transferred to the Purchasing Agent when not actually needed by any Galveston County department.

In order to assist in the performance of duties and maintaining accurate inventory records the Purchasing Agent has employed a Purchasing Asset Coordinator who is responsible for keeping accurate records of all County owned assets including their acquisition, transfer, and disposition. Cooperation from all County employees is necessary to accurately perform these duties.

12.2 Semi-Annual Inventory

The Purchasing Asset Coordinator inventories all County inventory twice a year, generally during the periods from mid-March to the end of May, and from mid-September to the end of November. All departments are required to assist the Purchasing Asset Coordinator in the documentation of all Fixed Assets. The County has implemented the Fixed Asset module of the financial system to facilitate documenting the acquisition, custodial use, financial reporting, and disposition of all fixed assets.

In addition to the efforts of the Purchasing asset coordinator, the following departments also have duties as they relate to Fixed Assets. These departments and their duties are as follows:

- a) **County Auditor's Office (also sometimes referred to herein as the Auditing Department):**
Upon the filing of the annual inventory by the Purchasing Agent with the County Auditor and the members of the Purchasing Board, the County Auditor is charged with the duty to carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.
- b) **Information Technology Department:**
The Information Technology Department (IT) is responsible for the accountability of fixed assets or other computer related technology equipment. This helps enable IT to facilitate expedient technology support. IT equipment and other items will be tagged by the designated IT representative and entered in the FA module once written documentation of tagging/deployment of fixed asset is submitted to the Purchasing asset coordinator.

Also, management of the County's inventory of computer related technology items such as notebook PC's, PC workstations, monitors, printers, small routers and switches, etc. that have an initial acquisition value of less than \$5,000.00, regardless of funding source, is facilitated by IT with the following guidelines:

1. A list of IT's Non-Fixed Asset items by department will be submitted to the Purchasing Agent for inclusion in the annual inventory report submitted to the County Auditor and the Purchasing Board in July.
2. Computer related technology items approved for acquisition by IT through the Purchasing Agent's procurement process, will be received at IT regardless of funding source, for tagging, deployment, and tracking purposes.

3. IT will produce an annual custody report for each County department indicating the number of units of equipment by type per location. Each department will review and update the reports as necessary and return them to IT as an audit check. Discrepancies will be addressed by IT and the affected Department before forwarding the custody report to the Purchasing asset coordinator.

12.3 Asset Control of Each Department

Each Elected and Appointed Official and Department Head has the primary responsibility for ensuring protective custody, and accounting for all county fixed assets assigned to their department. They also are required to complete the online asset custody verification process and form as and when requested by the Purchasing Asset Coordinator. The online form must be signed and returned to the Purchasing asset coordinator by the date announced via email. Any discrepancies should be noted on the online form.

Each Elected and Appointed Official and Department Head should designate up to two employees to serve as the Asset Custodians for their department, by completing (and having their employee or employees complete) an **FA-08, Dept. Signature Sheet**. The employee so designated is charged with performing all duties relating to asset management of all fixed assets assigned to their department including but not limited to the execution of **Forms FA-03 and FA-04**. The Asset Custodian for the department should note any discrepancies between the actual inventory and the inventory record on the asset custody report. Some examples of discrepancies include corrections to description, location, serial numbers, etc.

Although it is the responsibility of each Elected and Appointed Official and Department Head to semi-annually account for all County owned assets assigned to their department, the Purchasing Asset Coordinator and/or the County Auditor's Office may "spot check," or conduct a full inventory of all departments at such times and on such occasions as they deem reasonable or necessary.

12.4 Documentation Procedures for Movement of Fixed Assets

The following documentation procedures are designed to facilitate both reporting accuracy and technology support for Fixed Assets other than Information Technology Fixed Assets. The procedures are:

- a) The Purchasing Asset Coordinator must update the financial system within 5 business days of the actual equipment acquisition, transfer or disposition. All information required to the financial system must be filed with the Purchasing Asset Coordinator and made accessible to the County Auditor for auditing purposes upon request.
- b) In the case of Lost Assets, a **Form FA-03, Asset Disposal Report** must immediately be completed and copies given to the Purchasing asset coordinator and the County Auditor. In the case of Stolen Assets a **Form FA-03, Asset Disposal Report** must be immediately completed and copies given to the Purchasing Asset Coordinator.
- c) An online asset custody verification process is initiated semi-annual to all departments. This form is generated from fixed asset records stored in the Fixed Asset (FA) module of the county's financial system. It includes all inventoried fixed assets charged to the protective custody of each department. The department's asset custodian shall examine the form for accuracy, execute it and return it to the Purchasing Asset Coordinator by the date specified on the cycle kick-off email. Supporting documentation on each fixed asset must be attached to the form. Any discrepancy must be noted on the form and reconciled by the Purchasing asset coordinator and each the department from which the discrepancy emanates. Upon reconciliation of the form, the Purchasing Asset Coordinator will update the financial system. Only the Purchasing Asset Coordinator or, in his/her absence another Purchasing Department employee authorized in

writing by the Purchasing Agent to temporarily act in the Purchasing Asset Coordinator's stead is authorized to update the fixed asset portion of the financial system.

- d) The transfer of all other fixed property equipment from one Department to another shall be documented on **Form FA-02, Asset Transfer Report for Fixed Assets Other Than Information Technology Equipment**. This form must be signed by both the transferring Department's Asset Custodian and the Purchasing Asset Coordinator.
- e) The disposition of all other fixed property shall be documented on **Form FA-03, Asset Disposal Report**. This form must be signed by both the disposing Department's Asset Custodian and the Purchasing Asset Coordinator.
- f) Only the Purchasing Agent has the authority to modify these guidelines.

Chapter Thirteen: Travel Policy

13.1 County's Travel Policy

Galveston County employees authorized to travel, must adhere to the County Travel Policy and related procedures, the Travel Expense Reimbursement Procedures, which were approved by the Commissioners Court with the authority to manage placed under the Galveston County Auditor.

The Travel Policy may be found on the Galveston County Auditor Office's webpage located at www.galvestoncountytexas.gov/ao/Pages/default.aspx.

The specific URL to bring up the Travel Policy is:
www.galvestoncountytexas.gov/ao/Documents/TravelPolicy.pdf.

The specific URL to bring up the Travel Expense Reimbursement Procedure is:
www.galvestoncountytexas.gov/ao/Documents/TravelExpenseReimbursement.pdf.

A copy of the Travel Policy effective on and from January 1, 2018 is attached to this Purchasing Policies and Procedures Manual as Appendix No. 2; and

A copy of the Travel Expense Reimbursement Procedure is attached hereto as Appendix No. 3.

Failure to adhere to the terms and requirements of the Travel Policy and related procedures may result in payment or reimbursement of travel claims being denied. As the authority over the travel policy is under the County Auditor, in the event of any conflict between this Chapter and the Travel Policy/Travel Expense Reimbursement Procedure that became effective on January 1, 2018, the Travel Policy and Travel Expense Reimbursement Procedure effective January 1, 2018 shall control.

13.2 Travel Requests

The Travel Policy and Travel Expense Reimbursement Procedures apply to all employees whose travel expenses are paid from public funds, and is subject to oversight and enforcement by the County Auditor. County officials and department heads are responsible for ensuring travel expenditures are valid and appropriate and in conformity with the adopted Travel Policy and related procedures. County officials and department heads should ensure budgeted travel funds are available before authorizing travel for an employee. All travel must be approved by the county official/department head prior to a requisition being placed with the Purchasing Department. All travel requests must include a brief justification for the trip including estimated costs of registration fees, lodging, airfare, mileage, parking, taxi or shuttle use and a per diem.

All requests for reimbursements must be electronically requisitioned from a specified travel account containing adequate travel funds. An approved general ledger account can be obtained from the County Auditor.

Alternatively, travel expenses may be paid by an approved Galveston County issued Procurement Card (P-Card). P-Cards can be obtained upon application from the P-Card Administrator located within the Purchasing Department. When using a county procurement card, travel expenses, including conference/training, hotel, flight reservations, etc., charged on the procurement card must be submitted to the County Auditor in accordance with the *Galveston County Purchasing Card (P-Card) Program Policy and Procedures Manual*.

Chapter Fourteen: Procurement Card (P-Card) Program

14.1 General Purpose

The purpose of this section is to establish policies, procedures and criteria to be used in determining requirements for cardholders of the Galveston County Procurement Card (P-Card) Program. The Galveston County Purchasing Card (P-Card) Program Policy and Procedures Manual may be accessed online at: <http://www.galvestoncountytexas.gov/pu/PCards/PcardPolicies.pdf>.

In the event of any conflict between the provisions in this Chapter 14 and the P-Card policy posted online, the provisions of the policy posted online shall control.

The County has heretofore entered into agreement with the Texas Payment Card Consortium. This Contract provides for the use of commercial credit cards and associated services from a credit card provider. One of these credit cards is the Procurement Card (P-Card).

The P-Card is a procurement tool designed to allow County employees maximum flexibility in obtaining County authorized goods and services. Some benefits include:

- efficiency of online banking;
- increased transparency and security;
- reduction of purchase order numbers and corresponding invoice processing;
- faster methods of paying vendors;
- program rebates for volume purchases;
- easy online queries and transaction summaries;
- environmental savings through less paper used;
- free up Purchasing Department staff time to concentrate on more productive issues; and
- the card can be used 'virtually' to support e-procurement initiatives.

14.2 Definitions

Cardholder - A Department Head employee who is approved by their Department Head to have a Galveston County P-Card, issued in their name, and is authorized to execute legitimate P-Card transactions on behalf of Galveston County.

Card Provider - The contractor who maintains the card account, issue cards to Cardholders, sends monthly billing statements to the County Auditor, pays merchants and receives reimbursement from the County Treasurer. Also, assists in resolving disputes between the County Cardholder and Vendors. Currently, the Card Provider is J.P. Morgan Chase.

County Auditor's Department - The County Auditor's Office is sometimes referred to herein as the County Auditor's Department. This department is responsible for processing payments to the Card Provider, maintaining required accounting records, and storing original card receipts that support approved card statements.

County Treasurer's Department - The department responsible for paying P-Card purchases.

Department Head - County official (including Elected and Appointed officials and Department Heads) who approves their department employee's request for a P-Card using P-Card Request Form (Form PCPCRF), and who performs the duties of a Department Coordinator or a Departmental Supervisor or assigns those duties to a Departmental Coordinator or a Departmental Supervisor to act in their stead, if desired.

Department Coordinator - Department employee designated by the Department Head to enter charge account data and card holder approval via Smart Data On-Line (where applicable), and send these receipts to Auditor's Office.

Department Supervisor - Department Employee who is delegated by the Department Head to review transactions to ensure they are for legitimate and permitted County business expenses, and thereafter certify and approve for payment to the Department Head.

Disputed Charge - A charge for goods determined to be defective or a charge for services not performed and on which a vendor refuses to replace, repair, adjust charges on, perform or otherwise correct. Disputed Charges also includes fraudulent charges.

Fraudulent Charge - A disputed charge appearing on the Cardholder's monthly statement of account not authorized by the Cardholder.

Galveston County - The political subdivision of the State of Texas that contracts with the Card Provider to have P-Cards issued to Galveston County approved employees and agrees to accept liability for the use of the cards.

Galveston County Procurement Card (P-Card) - The official credit card issued by Galveston County to be utilized for authorized purchases.

P-Card Administrator - The coordinator and the liaison official between the County and the Card Provider who administers the P-Card Program for the County. The P-Card Administrator is appointed by the Purchasing Agent. Currently it is the Administrative Coordinator.

Personal Use - Use of a P-Card for the purchase of an item, commodity, or service other than those permitted by Galveston County adopted policies.

Smart Data On-Line - Secure internet access to individual card transactions provided by J. P. Morgan Chase or a subsequent bank approved by the Commissioners' Card.

Statement of Account - A monthly statement from the Card Provider of all purchases and credit transactions made by the Cardholder.

Unauthorized Purchase - Purchases that:

- exceed authorized dollar limits;
- are made with Vendors without an approved Merchant Category Code(s) (MCCs); or
- are made for Personal Use or, are otherwise not allowed.

Unauthorized Use - Use of the County P-Card by a person other than the Cardholder.

Vendor - The merchant with whom a Cardholder is making a purchase.

14.3 Eligibility to Participate

In order to participate in the P-Card Program, a Department Head must first agree to abide by all terms and conditions of this Chapter. They must also agree to discipline and, if warranted, terminate and not rehire any Cardholder who intentionally or knowingly uses or permits the use of a P-Card for either an Unauthorized Use or a Personal Use.

14.4 Responsibility & Authority

The Purchasing Agent and each Department Head is responsible for enforcing these guidelines. The Purchasing Agent, P-Card Program Administrator, the County Auditor, and the County Treasurer are responsible for administering these guidelines.

These P-Card Guidelines are intended to be consistent with federal and state rules and regulations. In the event of an inconsistency between these guidelines and federal or state rules and/or regulations, such rules and/or regulations control but only to the extent of the inconsistency.

14.5 Conditions of Use

Each authorized cardholder will be required, prior to the issuance of a P-Card to them, to certify, in writing, that they have read and will follow the P-Card Guidelines.

Cardholders, as a condition of being granted a P-Card agree to:

- ensure their use of the P-Card is used for legitimate Galveston County business purposes only
- Cardholders, before making a purchase using their P-Card, must check the remaining budgeted funds balance for the category in which the purchase will be recorded. If budgeted funds are not available in the expenditure category, the purchase may not be made until a budget amendment is secured;
- ensure that sales tax is not charged at time of purchase;
- ensure that if capital purchases are made using the P-Card that the appropriate Fixed Asset Form code is used and forwarded to the Purchasing Asset Coordinator;
- indicate account number(s) for all purchases charged to the P-Card in the card provider's online system;
- maintain the P-Card in a secure location at all times;
- not allow or permit other individuals to use the P-Card;
- not provide account number or expiration date to other employees except Cardholder's Department Head, the P-Card Administrator, the Purchasing Agent or authorized IT Personnel;
- not provide account number or expiration date to vendors except as necessary to make an authorized purchase;
- adhere to the purchase limits and restrictions of the P-Card;
- ensure the total transaction amount of any single transaction does not exceed authorized limits;
- ensure that split transactions are not utilized to circumvent the daily transaction limit;
- obtain and reconcile all sales slips with register receipts. and/or P-Card slips with card provider's online system;
- submit vendor receipts and approved on-line statement to their Department Head or, if authorized, their Department Coordinator or Department Supervisor in a timely manner;
- on purchases placed by telephone/fax supply a copy of the order blank or a description of order and attach this documentation to the statement;
- attempt to resolve disputes or billing errors directly with the vendor;
- ensure that an appropriate credit for the reported disputed item or billing error appears on a subsequent Cardholder statement;
- immediately report a lost or stolen card to the Card Provider at the 24 hour, 800 number listed on Attachment No.1, Contact Information and in the Appendix;
- immediately notify their Department Head and the P-Card Administrator of a lost or stolen P-Card by telephone with written follow up as soon as is reasonably possible under the circumstances;
- return the P-Card to the P-Card Administrator upon leaving employment with the County upon revocation of authorized usage;
- if a vendor does not accept credit cards, contact the Department Head and the P-Card Administrator for alternate purchasing instructions;
- report erroneous and emergency transactions to their Department Head and the P-Card Administrator during normal business hours; and
- reconcile vendor receipts to the card provider's online statement.

Failure to adhere to any of the above conditions of use will result in the automatic revocation of the P-Card, may subject the Cardholder to disciplinary action up to and including termination and, if warranted by the Galveston County Criminal District Attorney, criminal charges being filed against the Cardholder.

14.6 Duties of Parties Involved

Purchasing Agent:

- performs periodic audits of P-card usage and charges through the use of P-Card software to determine the appropriateness through the use of P-Card software;
- reports non-compliance of rules and regulations relating to usage to appropriate Department Head for disciplinary action;
- monitors usage of each Cardholders usage of P-Cards to determine if a renewal is warranted;
- reviews run reports on a monthly basis to monitor order splitting transactions and supplier purchase history; and
- performs other duties as necessary.

P-Card Administrator:

- acts as liaison with Card Provider;
- utilizes P-Card software from Card Provider as applicable;
- reviews Department approved applications for completeness of required information;
- submits completed application to Card Provider and receives P-Card from Card Provider;
- trains Departmental Management before releasing P-Cards;
- trains Cardholder before releasing P-Card;
- has Cardholder sign Cardholder Agreement (Form PC-CA), signifying acceptance of the terms of the P-Card program and verifying receipt of card;
- helps resolve disputed charges/discrepancies not resolved by Cardholder or Departmental Coordinator;
- promptly initialize procedure to cancel P-card on Card Provider website when requested;
- will review requests and justifications for access to the P-Card software and will ensure that individuals having such access are set up to have review and report capability only.
- obtains Card Provider confirmation of cancellation;
- ensures that lost or stolen cards have been blocked by Card Provider;
- assists Department Heads with erroneous declines and emergency transactions;
- cancels P-Cards as warranted;
- recommends disciplinary action when there has been a violation of a term or condition of this policy by a Cardholder;
- maintains complete records that include requests for new accounts, Cardholder Agreements, records of any lost/stolen cards, records of any replacement cards, special P-Card restrictions and transaction limits, card cancellation requests and card provider confirmations for each P-Card issued; and
- performs other duties as necessary.

County Auditor:

- sets-up and maintains authorized fully qualified expense accounts (Fund, Cost Center, and Object Code) within the financial system and authorized use within the P-card Program;
- audits and documents any policy/procedures violation with regard to P-card use;
- maintains and verifies Object Code dependencies to Fund and Cost Centers in the card provider's online system;
- utilizes card provider's online system to generate electronic audit reports, statements, and other reports as required;
- reconciles Card Provider's bill to Card Provider's electronic file and to the transaction totals posted to County's financial system;
- Accounts Payable Division assembles, reviews, and retains for seven years Cardholder's receipts for audit by internal and external auditors;
- retains copies of transmittals and correspondence with Card Provider, billing statements, and reconciliation of accounting statements;
- monitors statements for inappropriate purchases and sales or use tax charges and, through the Accounts Payable Division forwards a list of discrepancies to the P-Card Administrator to help track and resolve them;
- performs on a monthly basis a detailed review of P-Card clearing accounts that do not have a zero balance;

- notifies the Department Head of any card holder who has not approved the P-Card charges in the card provider's online system within two weeks of the statement monthly cut-off date;
- makes periodic audits of card use and charges for appropriateness through use of the card provider's online system for on-line reporting;
- monitors response time for submitting cardholder statement reconciliations, and receipts;
- prepares payment vouchers within 5 days after receipt of the Card Provider bill and processed so that payment will reach Card Provider no later than 30 calendar days after the close of the billing cycle of the previous month; and
- receives, reviews and approves as a claim for payment the individual charge card receipts supporting cardholder charges sent by the cardholders; and
- performs other duties as necessary.

County Treasurer:

- pays Card Provider bill by authorized method (check, wire transfer, etc.) to Card Provider; and
- performs other duties as necessary.

Information Technology - Finance Team:

- maintains interfaces between card provider's online and the County's financial systems;
- monitors and maintains card provider's online system functionality with respect to Galveston County's specific requirements;
- acts as liaison with Card Provider Customer Service and Help Desk;
- provides assistance and support to the P-Card administrator regarding system functionality;
- provides training and support to FSP Departmental personnel.
- troubleshoots and resolves system relate issues; and
- performs other duties as necessary.

Department Head, Department Coordinator, or Department Supervisor:

- reviews and approves employee requests for a P-Card;
- submits P-Card Request Form (Form PC-PCRF) to the P-Card Administrator;
- delegates transaction authority to the Cardholder;
- notifies the P-Card Administrator of Cardholder request(s) to have Card Provider set up a vendor to accept credit cards;
- collects Cardholder original receipts;
- compares vendor receipts to approved card provider's online statements;
- enters account data and card holder approval via On-Line, as designated;
- forwards all Cardholder receipts to the Accounts Payable Department in the County Auditor's Department;
- forwards requests for cancellation of P-Card upon Cardholders' termination, transfer, or loss of P-Card privileges to the P-Card Administrator;
- collects canceled cards from Cardholders and forwards to P-Card Administrator;
- assists Cardholders with erroneous declines and emergency transactions;
- attempts to resolve any disputes with vendor and/or Card Provider not resolved by Cardholder;
- notifies P-Card Administrator in 3 to 5 days of any unresolved disputes, noting the reason for dispute using Form PC-TRD;
- notifies P-Card Administrator of lost or stolen cards; and
- performs other duties as necessary.

14.7 Procedures Overview

- P-Cards will be issued to County employees only.
- County employee's Department Head must approve their employee's request for a P-card.
- The Cardholder's name will be embossed on the P-Card.
- P-Cards are not transferable between individuals or departments.

- Department Heads in departments with several users must assign both a Department Coordinator and a Department Supervisor to act on their behalf.
- Department Heads, and their Department Coordinators, Department Supervisors and Cardholders must adhere to instructions issued by the P-Card Administrator.
- Cardholders must make purchases using only established guidelines and must review their monthly Cardholder statement, on line via card provider's online system.
- Cardholders must match receipts to on-line statement and notifies appropriate Department Head, Department Coordinator or Department Supervisor for purposes of review and approval of on-line transactions.
- Department Supervisor, if appointed, reviews cardholder charges and approves the on-line charge and notifies the Department Coordinator, or Department Head for final approval where required.
- Department Coordinators, if designated, review transactions, ensures account codes are allocated appropriately and forwards receipts to Accounts Payable within seven (7) business days of the close of the card monthly period.
- Department Heads or Department Coordinators must notify the P-Card Administrator of Cardholder terminations immediately to expedite cancellations.
- Card Provider sends consolidated invoice to the County Auditor at the end of monthly billing cycle, which is the 15th of each month or next business day.
- Payment is made by County Treasurer to Card Provider within 30 calendar days after the end of the billing cycle.

14.8 Rules & Regulations

• Obtaining a Procurement Card:

To obtain a County P-Card, the requestor must complete and sign a County P-Card Request Form, (Form PC-PCRF). This form must be approved by the requestor's Department Head and by the P-Card Administrator.

• Cardholder Eligibility:

To be eligible to receive a P-Card criteria:

- a. an applicant must be an employee of Galveston County;
- b. the P-Card Request Form (Form PC-PCRF) must identify the types of usage and the transaction limits desired;
- c. the Department Head, or, if applicable the Department Coordinator or Department Supervisor must approve an applicant's request for a P-Card;
- d. the applicant may be required to attend a training session before receiving their P-Card; and
- e. the applicant must sign a P-Card Cardholder Agreement (Form PC-CA) prior to receiving their P-Card.

•Cardholder's Personal Credit Unaffected:

The P-Card is a corporate charge card. Use of the P-Card will not affect the Cardholder's personal credit; however, it is the Cardholder's responsibility to ensure that it is used within these policy guidelines. P-Card access will be restricted to meet the authorized purpose approved by the Cardholder's Department Head or, if applicable their Department Coordinator or Department Supervisor.

•Lost, Misplaced or Stolen P-Cards:

Cardholders are required to immediately report their lost or stolen P-Card to Card Provider at the 800-number listed on Attachment No. 1, Contact Information (24 hours a day, 365 days a year). The Cardholder must also immediately notify his/her Department Head and the P-Card Administrator in writing about the lost or stolen card.

•Renewal Process:

Individual cards are originally issued for three (3) years. They are automatically renewed for an additional three (3) year period. Account numbers will remain the same; but Cardholders must call to activate new cards. Cards are sent directly to the P-Card Administrator

•Control of Procurement Card:

Cardholders must safeguard their County P-Card and account number at all times. Cardholders must always treat the P-Card with at least the same level of care as their own personal credit cards. Under no circumstances may a Cardholder allow or permit another person other than their Department Head, the P-Card Administrator, the Purchasing Agent and authorized IT personnel access to their card or to the card account number and/or expiration date. If this regulation is violated, the P-Card will be automatically revoked and disciplinary action up to and including termination, and, if determined necessary by the Criminal District Attorney, criminal action will be taken. In addition, the P-Card must be immediately surrendered to the P-Card Administrator.

Department Heads, Department Supervisors, and Department Coordinators who are aware of or who allow unauthorized practices by Cardholders under their supervision are also subject to similar disciplinary actions.

• System Security and Password Requirements:

Individuals, with access to the Card Provider online system are required to change their passwords every 90 days. System Administrators are required to change passwords every thirty days.

Failure to change passwords will result in access to the software system being denied. If access to a P-Card has expired, contact the P-Card Administrator.

• Authorized Purchases/Failure to Comply:

P-Card usage is restricted to those authorized purchases previously approved by the Purchasing Department official and appropriate Department Head. Purchases that exceed the authority approved on the P-Card Request Form (Form PC-PCIU) are not authorized. Cardholders may use their P-Card in lieu of requisitioning purchase orders for authorized purchases. Although not every Cardholder has the same privileges, authorized purchases may include: travel, meals, fuel and the purchase or rental of hardware, tools, equipment, replacement parts, materials, and office supplies. Dollar purchase limits will also be detailed in the approved P-Card application form.

Failure to comply with Department Head authorization or these program guidelines will result in immediate and permanent revocation of the P-card, notification of the unauthorized purchase to the Cardholder's Department Head and disciplinary measures up to and including immediate termination of employment. Unauthorized purchases will also be reported to the Galveston County Criminal District Attorney.

• Unauthorized Purchases:

P-Cards are not to be used for any product or service not authorized by this policy for County use. Unauthorized purchases include, but are not limited to:

- a. items for personal use;
- b. a single transaction that exceeds the approved limit;
- c. multiple transactions per day with the same vendor that in total exceed the approved transaction limit; and/or
- d. alcoholic beverages.

The Purchasing Agent has the sole authority to permit the purchase of any item through the use of a P-Card at such times as he/she determines is necessary. All authorizations that override an unauthorized purchase will be reduced to writing as soon as is reasonably practicable under the circumstances.

• Disputes or Fraudulent Charges:

If goods purchased with the P-Card are found to be defective, or if information for any item charged is incorrect, the Cardholder has the responsibility to return the item for credit or to decline approval of the purchase. In the event the Cardholder returns the item, he/she is to either secure a credit or a replacement item. If a Vendor refuses to credit, replace, repair, adjust charges or correct such defective goods the purchase of the item shall be considered to be in dispute.

If services rendered are unsatisfactory, the Cardholder has the responsibility to decline approval of payment for such services unless and until such services have become satisfactory or otherwise acceptable. If a Vendor refuses to improve their services, the purported tender of the services will be considered in dispute.

Vendors will issue all credits to the individual P-Card account for any item they have agreed to accept for return or for any bill for any service they have subsequently decided to withdraw. This credit will appear on a subsequent statement.

Under no circumstances may a Cardholder accept cash in lieu of a credit to the P-Card account.

Purchases questioned by the P-Card Administrator or the County Auditor will be considered to be in dispute.

Fraudulent charges appearing on a Cardholder's account are also considered to be in dispute.

• Reconciliation and Payment:

From the software provided on a monthly basis by the Card Provider, each Cardholder will access a statement of charges. Similarly, on a monthly basis, the Card Provider will provide the County Auditor with a billing statement of all charges made by Cardholders. Unquestioned purchases will be approved by the County Auditor and paid by the County Treasurer within the required time frame. Questioned purchases will be considered to be in dispute.

• Cardholder Status Change/Revocation Account:

The P-Card Administrator will close or revoke an account if:

- a. is requested by a Department Head to close an account for any reason or for no reason;
- b. a Cardholder transfers to a different department, moves to a new job, is fired, or otherwise terminates employment;
- c. the P-Card is used for a personal or unauthorized purchase, including unauthorized purchases described above;
- d. the P-Card is used to purchase alcoholic beverages or any substance, material, or service, which violates County policy or any state or federal law or regulation;
- e. the Cardholder authorizes, allows, permits or otherwise suffers the P-Card to be used by another individual for any reason;
- f. the Cardholder splits a purchase to circumvent the limitations of the P-Card;
- g. the Cardholder uses another Cardholder's card to circumvent the purchase limit assigned to either the Cardholder or to the limitations of the P-Card;
- h. the Cardholder fails on a timely basis to provide required receipts to the individual to whom such receipts are to be provided;
- i. the Cardholder fails to provide, when requested, information about any specific purchase;
- j. the Cardholder does not adhere to all of the P-Card policies and procedures;
- k. failure to properly safeguard a P-Card; or
- l. any other reason deemed necessary by the Purchasing Agent or the P-Card Administrator.

Upon revocation of a P-Card, the P-Card Administrator will notify both the Department Head and the Cardholder of such revocation. Cardholders whose authorization to use a P-Card has been revoked must immediately surrender their P-Card to the P-Card Administrator.

In addition to closing the account, the Cardholder may be subject to disciplinary action up to and including termination. Restitution will be sought for any unauthorized purchase.

• Authorized Purchases/Failure to Comply:

P-Card usage is restricted to those authorized purchases previously approved by the Purchasing Department official and appropriate Department Head. Purchases that exceed the authority approved on the P-Card Request Form (Form PC-PCIU) are not authorized. Cardholders may use their P-Card in lieu of requisitioning purchase orders for authorized purchases. Although not every Cardholder has

the same privileges, authorized purchases may include: travel, meals, fuel and the purchase or rental of hardware, tools, equipment, replacement parts, materials, and office supplies. Dollar purchase limits will also be detailed in the approved P-Card application form.

Failure to comply with Department Head authorization or these program guidelines will result in immediate and permanent revocation of the P-card, notification of the unauthorized purchase to the Cardholder's Department Head and disciplinary measures up to and including immediate termination of employment. Unauthorized purchases will also be reported to the Galveston County Criminal District Attorney.

• **Unauthorized Purchases:**

P-Cards are not to be used for any product or service not authorized by this policy for Galveston County use.

Unauthorized purchases include, but are not limited to:

- a. items for personal use;
- b. a single transaction that exceeds the approved limit;
- c. multiple transactions per day with the same vendor that in total exceed the approved transaction limit;
- d. alcoholic beverages;

The Purchasing Agent has the sole authority to permit the purchase of any item through the use of a P-Card at such times as he/she determines is necessary. All authorizations that override an unauthorized purchase will be reduced to writing as soon as is reasonably practicable under the circumstances.

• **Disputes or Fraudulent Charges:**

If goods purchased with the P-Card are found to be defective, or if information for any item charged is incorrect, the Cardholder has the responsibility to return the item for credit or to decline approval of the purchase. In the event the Cardholder returns the item, he/she is to either secure a credit or a replacement item. If a Vendor refuses to credit, replace, repair, adjust charges or correct such defective goods the purchase of the item shall be considered to be in dispute.

If services rendered are unsatisfactory, the Cardholder has the responsibility to decline approval of payment for such services unless and until such services have become satisfactory or otherwise acceptable. If a Vendor refuses to improve their services, the purported tender of the services will be considered in dispute.

Vendors will issue all credits to the individual P-Card account for any item they have agreed to accept for return or for any bill for any service they have subsequently decided to withdraw. This credit will appear on a subsequent statement.

Under no circumstances may a Cardholder accept cash in lieu of a credit to the P-Card account.

Purchases questioned by the P-Card Administrator or the County Auditor will be considered to be in dispute.

Fraudulent charges appearing on a Cardholder's account are also considered to be in dispute.

• **Reconciliation and Payment:**

From the software provided on a monthly basis by the Card Provider, each Cardholder will access a statement of charges. Similarly, on a monthly basis, the Card Provider will provide the County Auditor with a billing statement of all charges made by Cardholders. Unquestioned purchases will be approved by the County Auditor and paid by the County Treasurer within the required time frame. Questioned purchases will be considered to be in dispute.

• **Cardholder Status Change/Revocation Account:**

The P-Card Administrator will close or revoke an account if:

- a. is requested by a Department Head to close an account for any reason or for no reason;
- b. a Cardholder transfers to a different department, moves to a new job, is fired, or otherwise terminates employment;
- c. the P-Card is used for a personal or unauthorized purchase, including unauthorized purchases described above;
- d. the P-Card is used to purchase alcoholic beverages or any substance, material, or service, which violates County policy or any state or federal law or regulation;
- e. the Cardholder authorizes, allows, permits or otherwise suffers the P-Card to be used by another individual for any reason;
- f. the Cardholder splits a purchase to circumvent the limitations of the P-Card;
- g. the Cardholder uses another Cardholder's card to circumvent the purchase limit assigned to either the Cardholder or to the limitations of the P-Card;
- h. the Cardholder fails on a timely basis to provide required receipts to the individual to whom such receipts are to be provided;
- i. the Cardholder fails to provide, when requested, information about any specific purchase; the Cardholder does not adhere to all of the P-Card policies and procedures;
- k. failure to properly safeguard a P-Card; or
- l. any other reason deemed necessary by the Purchasing Agent or the P-Card Administrator.

Upon revocation of a P-Card, the P-Card Administrator will notify both the Department Head and the Cardholder of such revocation. Cardholders whose authorization to use a P-Card has been revoked must immediately surrender their P-Card to the P-Card Administrator.

In addition to closing the account, the Cardholder may be subject to disciplinary action up to and including termination. Restitution will be sought for any unauthorized purchases.

**Card Provider Telephone Number to be used in the event of a loss of stolen P-Card:
1-800-890-0669**

APPENDICES

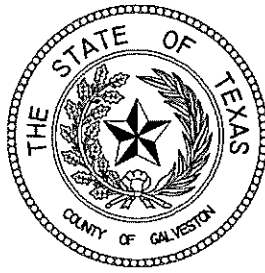
Appendix No. 1.	Forms and Attachments:
Form PEID	Person-Entity Identification Data
Form W-9	Request for Taxpayer Identification Number and Certification
Form PC-ASF	P-Card Access Security Form
Form PC-PCRF	P-Card Request Form
Form PC-CA	P-Card Card Holder Agreement
Form PC-ESF	P-Card Employee Security Form
Form FA-02	Asset Transfer Report for Fixed Assets Other Than Information Technology Equipment
Form FA-03	Asset Disposal Report
Form FA-04	Verification of Asset Custody by Department
Appendix No. 2	Travel Policy of Galveston County, effective January 1, 2018
Appendix No. 3	Travel Expense Reimbursement Procedure, effective January 1, 2018

County of Galveston Purchasing Agent

Galveston County Purchasing Policies and Procedures Manual

Rev. 3.0
(Effective March 7, 2018)

Appendix No. 1.	Forms and Attachments:
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COUNTY of GALVESTON
Purchasing Department

rev. 1.3, March 29, 2010

FORM PEID:	Request for Person-Entity Identification Data
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Instructions: Please type or print clearly when completing sections 1 thru 4 and return completed form to:

Galveston County Purchasing Agent
722 Moody Avenue (21 st. Street), 5th Floor
Galveston, Texas 77550
(409) 770-5371
prodoc@co.galveston.tx.us

1.	Business Name:			
	Attention Line:			
2.	Physical Address:			
	City:	State:	Zip+4:	
3.	Billing / Remit Address:			
	City:	State:	Zip+4	
4.	Main Contact Person:			
	Main Phone Number:			
	Fax Number:			
	E-mail Address:			

Areas below are for County use only.

Requested By:	Phone / Ext. #	
Department:	Date:	
Action Requested - Check One:	IFAS PEID Vendor Number:	
<input type="checkbox"/> Add New	<input type="checkbox"/> Change Data	<input type="checkbox"/> Re-activate
<input type="checkbox"/> Inactivate	<input type="checkbox"/> Employee	<input type="checkbox"/> Attorney
<input type="checkbox"/> Landlord	<input type="checkbox"/> Foster Parent	<input type="checkbox"/> Refund
<input type="checkbox"/> OneTime	<input type="checkbox"/> Foster Child	

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number													
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				-				-					
OR													
Employer identification number													
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Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
 - I—A common trust fund as defined in section 584(a)
 - J—A bank as defined in section 581
 - K—A broker
 - L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
 - M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ²
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor [*]
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

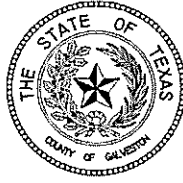
The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



Galveston County

**P-CARD
ACCESS SECURITY FORM**

Department # _____ Department Name: _____

Request Type: (check one) Add/New Delete Change

Available Access

(Check which access is requested)

- Cardholder Write
- Cardholder Read/Inquiry
- Account Coordinator
- Supervisor/Department Head

FOR FSP USE ONLY	
<input type="checkbox"/>	Purchasing Buyer
<input type="checkbox"/>	Accounts Pay able
<input type="checkbox"/>	Auditor Extract
<input type="checkbox"/>	Auditor Read and Maintain Account
<input type="checkbox"/>	FSP Read/Inquiry
<input type="checkbox"/>	P-Card Administrator

List user-names to grant the above access (as per attached **Employee Security Form**)

Department Head Authorization: _____ Date: _____

If access is requested for accounts out of direct departmental control, attach a letter, signed by the official, detailing the accounts being requested and state the reason for the request.



Galveston County

GALVESTON COUNTY P-CARD REQUEST FORM
Accounting & Card Information Record

TYPE OF REQUEST

Add/New Account Delete Account Change Lost/Stolen Card

ACCOUNT INFORMATION

Name: _____

Default Account Code: _____

Department Number/Name: _____

Work Number: _____

Work Location (facility): _____

Last four (4) digits of your social security number: _____

E-mail address: _____

Monthly Credit Limit: _____

Single Credit Limit: _____

Cash Withdrawal Yes No Cash Limit: _____
Requires approval by Purchasing Agent and Commissioners' Court

AUTHORIZATION

 Employee Name (print) Employee Signature Date

 Department Head Name (print) Department Head Signature Date

 P-Card Administrators Name (print) P-Card Administrator Signature Date

INSTRUCTIONS ON HOW TO COMPLETE FORM

NEW ACCOUNT

1. Indicate "New Account" under type of request
2. Complete Account Information and obtain Authorization signatures
3. Indicate Account Coordinator's Name: _____
4. Return to Purchasing

ACCOUNT CLOSURE

1. Indicate "Account Closure" under type of request
2. Last 4 digits of Account # _____
3. Employee and/or Manager print and sign name under Authorization
4. Return to Purchasing



Galveston County

**GALVESTON COUNTY P-CARD
CARDHOLDER AGREEMENT**

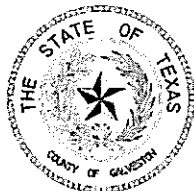
I, _____, verify that I have received a Galveston County Procurement Card (P-Card). I also verify that I have received a copy of the P-Card program guidelines and procedures.

I understand that I have been designated to make charges against a Galveston County P-Card for which a card has been issued in my name. I further understand that under NO circumstances am I allowed to permit another individual to use my card by physically giving them the P-Card or giving them the number. I agree to use the P-Card in accordance with the guidelines and provisions as outlined in the P-Card Policy and Procedures section of the Purchasing Agent Policy and Procedure Manual and to only make purchases on the P-card for legitimate business purposes and for the sole benefit of Galveston County.

I am aware that violations of the requirements and/or failure to follow the guidelines and procedures as outline in the P-Card Policy and Procedure section of the Purchasing Agent Policy and Procedure Manual may result in revocation of use, privileges, and/or disciplinary action up to and including termination of employment. I am also aware that if it is deemed that I have used the P-Card inappropriately, I will be required to reimburse Galveston County for all costs associated with such improper use.

Cardholder Signature: _____ Date: _____

Witness: _____ Date: _____



ASSET TRANSFER REQUEST

Date: _____

To: Purchasing Department, Fixed Asset Property Manager

From: _____ Department/
Division: _____
(Authorized Asset Custodian Signature) (Print Name)

RE: **Please amend the inventory to reflect the following change(s) due to TRANSFER**

Transfer _____ Unit # _____ Description _____ SerialVIN _____
(FAID#, last 5 digits) (last 5 digits)

From _____ Location _____
(Department/Division Name) (Building, Floor, Suite or Room No)

To _____ Location _____
(Department/Division Name) (Building, Floor, Suite or Room No)

Reason for Transfer _____

Transfer _____ Unit # _____ Description _____ SerialVIN _____
(FAID#, last 5 digits) (last 5 digits)

From _____ Location _____
(Department/Division Name) (Building, Floor, Suite or Room No)

To _____ Location _____
(Department/Division Name) (Building, Floor, Suite or Room No)

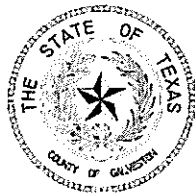
Reason for Transfer _____

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR RECORDS

PURCHASING DEPARTMENT USE ONLY

Date Form Processed

Fixed Asset Property Manager



ASSET DISPOSAL REPORT

DATE: _____

To: Purchasing Department, Attention: Fixed Asset Property Manager

From: _____
Department No. & Name, Department Asset Custodian Authorized Signature

Re: Please amend the inventory to reflect the following change(s) due to DISPOSAL

METHOD OF DISPOSAL

- Auction** _____
Date
- Theft** _____ (Attach the Law Enforcement Agency Theft Report)
Date
- Destroyed by**
- Natural Disaster _____
Date
 - Traffic Accident _____
Date
- Trade-In** _____
Date
- Donated** _____ Agency receiving donation: _____
Date

Disposal of: _____
FAID No.

Reason for disposal: _____

Serial No./VIN #: _____

From: _____ Location: _____
Department No. & Name Building, Floor, Suite, or Room No.

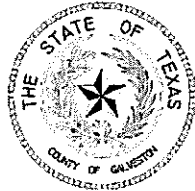
Comments: _____

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR RECORDS

PURCHASING DEPARTMENT USE ONLY

Date Form Processed

Fixed Asset Property Manager



**VERIFICATION
OF
ASSET CUSTODY REPORT by DEPARTMENT**

The inventory of assets in the Galveston County Department listed below was conducted in accordance with Section II – D of the Galveston County Asset Policy Manual. The original report, with any noted discrepancy, and appropriate documentation as necessary, is verified as accurate. The Asset Custodian who signs below accepts full responsibility for inventoried assets assigned to this department.

Department No./Department Name

Authorized Signature of Department Asset Custodian on File

Date

PURCHASNG DEPARTMENT USE ONLY

Date Form Received

Fixed Asset/Property Manager

- Verified as Reported/No Discrepancies
- Discrepancy Noted with appropriate documentation attached
- Discrepancy Noted/ No Documentation Attached
- Adjustment pending / RE: _____
- Adjusted inventory records in FA Module as of _____
Date of Action

**County of Galveston
Purchasing Agent**

**Galveston County Purchasing
Policies and Procedures Manual**

Rev. 3.0
(Effective March 7, 2018)

Appendix No. 2

**Travel Policy of Galveston County, effective
January 1, 2018**



Travel Policy

		Accounting for Expenditures
Effective Date: 01/01/2018	Last Revision: 11/27/2017	Page 1 of 4

1.0 Purpose

Commissioners Court recognizes that expenditure of public funds for travel is necessary to conduct county business. This policy establishes appropriate requirements, limitations and guidelines for county employee business travel. The purpose of this policy is to:

- Establish the appropriate use, and limitations on use, of public funds for travel by employees
- Ensure travel expenses of employees are for legitimate, reasonable business travel
- Provide an expectation to employees to be conscientious of their use of public funds for travel
- Require accountability for the use of public funds by county employees and officials

2.0 Authority

Upon adoption of this policy by Commissioners Court, the County Auditor shall be responsible for the implementation and interpretation of this policy, as well as enforcement of the policy, in accordance with Local Government Code 112.002, 112.006 and 112.007.

The County Auditor shall issue, maintain and update any procedure, control and form needed to ensure compliance with this policy.

The County Auditor shall notify Commissioners Court whenever a change occurs in the optional standard mileage rate set by the IRS and the standard per diem rate set by the GSA.

3.0 Scope

This policy applies to all employees whose travel expenses are paid from public funds controlled by the county or county officials.

Travel expenses for persons not covered by this policy and travel parameters should be established and approved by Commissioners Court before the expense is incurred on a case by case basis.

Lobbying: Commissioners Court (or its duly appointed designee) will present official county policy and the county stance on legislative bills and issues to the Texas and U.S. Legislature. Unless specifically authorized by Commissioners Court, no other county official or employee is to expend public funds to communicate directly with a legislator or a member of their office staff in support of or in opposition to official county policy. Any county official or employee who chooses to meet with, discuss or otherwise attempt to influence legislative issues must do so at their own expense and in their individual or elected capacity, not as a representative of Galveston County.

4.0 Definitions

County Business

Business travel for the purpose of conducting official authorized county business or professional/educational travel to attend meetings, conferences and training programs for professional growth and development as well as for the mutual benefit of the county.



Employee

Elected officials, appointed officials and paid employees of Galveston County. This policy does not cover travel expenditures of volunteers, consultants or other person(s) representing the county.

5.0 General Policy Provisions

Qualifying travel expenses will be paid or reimbursed for an employee traveling on official county business, provided the employee keeps and submits invoices, receipts and all other required documentation for those expenses as specified in the *Accounts Payable Policy*.

All expenses must be reasonable, necessary and have a valid business purpose.

Travel expenses are not allowed for two or more county employees on the same receipt. Each employee must pay for their own travel expenses. The reason for each paying for their own expense is due to Freedom of Information Act (FOIA) requests. Exceptions can be made by the County Auditor, if necessary.

Duplicate travel expense payments or reimbursements are prohibited. This would include payment or reimbursement of the same expense by both the county and an outside party or paying an expense by procurement card (P-Card) and submitting a reimbursement for the same expense.

If travel expenses are being paid by another source, the employee may claim reimbursement for any travel expense allowed under this policy that is **not** reimbursed by the other source, with proper documentation.

Travel expenses paid from grant funds may have specific requirements. For grant-paid travel, consult with the County Auditor prior to travel. If the travel expenses allowed by this policy are greater than the grant reimbursement, the additional expenses not covered by the grant may be submitted for reimbursement, providing there are funds available in that employee's departmental budget.

Travel outside of the continental United States is prohibited without prior approval of Commissioners Court at least 45 days before the departure date of the trip.

Employees may, on occasion, combine personal and county travel on the same trip provided there is no additional cost to the county; personal travel is not reimbursed. An exception is allowed when an employee is to receive an award and a family member has been expressly invited to attend the ceremony by the awarding organization. The invitation must be submitted with the travel documents.

If an employee is combining personal and business travel, the county will only pay or reimburse expenses for the business travel portion of the trip. There should be no additional cost to the county for the personal travel. If there is any personal travel involved in a business trip, the employee shall seek the opinion of the County Auditor if there is any doubt as to the estimated cut off between personal and business travel.

If a county vehicle is used for transportation, the employee must follow all other applicable county policies and procedures.

6.0 General Travel Guidelines

When evaluating travel costs, it is important to consider employee costs. Savings from inexpensive travel can be more than offset by excessive travel time that keeps the employee away from normal county duties. Saving a few dollars on an airline ticket is not warranted if the employee must leave a day early and the cost of time away from the job exceeds the airline ticket savings.



Travel which is out-of-county and **does not include an overnight stay** is considered to be day travel and reimbursable for mileage, parking and tolls. Per IRS Publication 5137, meal expenses incurred during day travel are considered taxable fringe benefits and reimbursed through payroll for the exact cost of the meal in gross pay before payroll taxes and withholdings are deducted. The county shall report fringe benefits as income on the employee's W-2.

Travel which is out-of-county and **includes an overnight stay** is eligible for hotel and other travel reimbursement identified in this policy and the *Travel Expense Reimbursement Procedure*. Meal expenses incurred during overnight travel can be paid for by a p-card or reimbursed on a per diem basis. If a p-card is used, meal expenses may not exceed the per diem daily rate.

The County Auditor shall establish deadlines for submitting travel documentation. Employees submitting documents after the established deadline risk being held personally liable for the expenses.

Travel should be scheduled well in advance, when possible, in order to take advantage of lower rates. Galveston County is a tax exempt entity. When traveling, employees should avoid incurring sales tax.

All records for travel and training using public funds are open to inspection under the Texas Open Records Act, unless otherwise prohibited by law.

7.0 County Official and Department Head Responsibility

County officials and department heads are responsible for ensuring travel expenditures are valid and appropriate.

County officials and department heads should ensure budgeted travel funds are available before authorizing travel for an employee. If travel is authorized without budgeted funds available, the official or department head may be held personally liable for the expenses and responsible for reimbursing the county for any amount not budgeted.

County officials and department heads should send the fewest number of individuals required to a seminar, conference or meeting, taking into consideration department objectives or needs.

If there are any questions regarding this policy or there are unusual circumstances involved, the county official or department head should seek the County Auditor's opinion prior to travel.

Any exceptions to this policy must be approved by Commissioners Court prior to expenditure of public funds for travel.

8.0 Employee Responsibility

Employees should use good judgment and be conscientious of their use of public funds for travel. An employee on official county business should exercise the same care in incurring expenses and accomplishing official county business that a prudent person would exercise if traveling for personal business. Excess costs, indirect routes, delays or luxury accommodations unnecessary or unjustified in the performance of official county business are not considered as exercising prudence.

In accordance with this county policy and the procedures established by the County Auditor, employees traveling on official county business will be paid or reimbursed for reasonable expenses incurred if travel funds have been budgeted and are available.

Employees traveling on official county business must submit all required or requested receipts for audit and reimbursement or risk being held personally liable for their travel expenses.



Employees are personally responsible for any expense not allowed under this policy. If the disallowed expense has been charged on a county procurement card, the employee shall promptly reimburse the county for that charge in a timely manner in accordance with the *Galveston County Purchasing Card (P-Card) Program Policy and Procedures Manual*.

Any employee found to be submitting false travel claims is subject to disciplinary action, up to and including termination and possible prosecution.

Reasonable accommodation requests needed under the Americans with Disabilities Act should be coordinated with travel, transportation, lodging, meals and conference officials, as necessary, to comply with the needs of the employee.

**County of Galveston
Purchasing Agent**

**Galveston County Purchasing
Policies and Procedures Manual**

Rev. 3.0
(Effective March 7, 2018)

Appendix No. 3

**Travel Expense Reimbursement Procedure,
effective January 1, 2018**



Travel Expense Reimbursement Procedure

		Accounting for Expenditures
Effective Date: 01/01/2018	Last Revision: 11/27/2017	Page 1 of 12

1.0 Purpose

The purpose of this procedure is to provide the appropriate guidelines for county employees when requesting reimbursement for expenses incurred and to provide clarification of reimbursable expenses versus non-reimbursable expenses.

2.0 Authority

Upon adoption of this policy by Commissioners Court, the County Auditor and Office of County Auditor staff shall be responsible for the implementation and interpretation of this procedure, as well as enforcement of the procedure when determining reimbursement of employee expenses.

The County Auditor shall issue, maintain and update any procedure, control and form needed to ensure compliance with this procedure.

County officials, department heads and employees shall follow this procedure when requesting reimbursement of travel expenses.

3.0 Definitions

Business Meal

A meal expense incurred by an employee for the employee and another person. The other person may be an employee or an outside person. The meal has to be incurred in conjunction with a business purpose related to county business. Business meals are not considered travel meals.

Travel Meal

A meal expense incurred by an employee for travel purposes. There are two types of travel meals:

- Day Travel Meal – a meal expense for any travel that **does not include** an overnight stay. The cost of day travel meals are paid through payroll and require employment taxes and withholdings to be taken from the reimbursement.
- Overnight Travel Meal – a meal expense for any travel that **does include** an overnight stay. The cost of overnight travel meals are reimbursed by per diem allowances, unless paid for by a county procurement card (P-Card). If a P-Card is used, meal expenses may not exceed the daily per diem rate.

Per Diem Allowance

A fixed daily rate set by the Governmental Services Administration (GSA) paid in lieu of actual expenses for meals.

4.0 Procedure

4.1 Request for Reimbursement

Employees traveling on official county business must complete and submit the Galveston County Expense Report (Form 1.0) or Detail of Mileage Claims Form (Form 3.0) and all required or requested receipts in accordance with the *Accounts Payable Policy*. Expenses paid for by a county procurement card and travel advances must be accounted for and included on the Galveston County Expense Report. All expense reimbursements and support



documentation must be submitted to the Office of County Auditor with a county purchase order number within 30 days of returning from travel.

4.2 Procurement Card Expenditures for Travel Reservations

When using a county procurement card, travel expenses, including conference/training, hotel, flight reservations, etc., charged on the procurement card must be submitted to the Office of County Auditor in accordance with the *Galveston County Purchasing Card (P-Card) Program Policy and Procedures Manual*. The County Auditor shall determine if there are sufficient budgeted funds available; if there is not sufficient funding, the County Auditor will notify the department. The county official or department head may be held liable for any travel without sufficient budgeted funding.

4.3 Transportation Expenses

4.3.1 Air Fare

Air travel is acceptable when 1.) travel by car is longer than three hours or 2.) air travel is cheaper than travel by car.

Flights must be booked, whenever possible, at least one month in advance to take advantage of early booking discounts.

Air travel should be scheduled to allow for the most economical fares; this shall not require an employee to travel after 10:00 PM.

It is acceptable to travel a day early in order to receive a discounted air fare; however, the savings in air fare should exceed any additional hotel, meal and incidental expenses incurred due to early travel.

Employees are required to travel by economy class or coach class, unless there are documented extenuating circumstances. Documentation must be submitted with the Galveston County Expense Report.

The county will pay reasonable fees for luggage or other expenses when traveling by air.

Any compensation received from the airline for moving flights or other flight issues is to be paid to the county.

4.3.2 Auto Rental

Rental vehicles may be an authorized expense if determined by the county official or department head as necessary.

Employees should not purchase or agree to rental car insurance. Galveston County insurance provides vehicle insurance for all employees on travel status; rental car insurance will not be reimbursed and employees will be held responsible for any purchase of rental car insurance.

The employee should minimize the cost of fuel when renting a vehicle, taking into account the rental car company policy.

4.3.3 Use of Personal Vehicle for Travel or Business Purposes

When an employee provides their own transportation, the county will pay the current IRS business mileage rate to calculate the costs of operating a vehicle for business purposes, including travel for business purposes.



Miles claimed must be reasonable in relation to the location visited.

No other automobile expense will be paid for use of a personal vehicle other than the current mileage rate established by the IRS for business mileage and adopted by Commissioners Court.

The County Auditor shall notify Commissioners Court and publish the IRS business mileage rate each year by January 1 on the county website.

Mileage is paid based on IRS rules as detailed in *IRS Publication 463: Travel, Entertainment, Gift and Car Expenses*. Mileage should be calculated on an exact mileage basis or using Google maps. Details are summarized below with definitions of each location.

If the employee is receiving an auto allowance, mileage will only be reimbursed for travel beyond the contiguous counties of Galveston, Brazoria, Harris and Chambers.

If an employee uses a personal vehicle for travel for county business, the rules on the following table apply:

	From Your Home	From Your Primary Work Location	From A Temporary Work Location
To Your Home		No mileage allowed	Mileage allowed
To Your Primary Work Location	No mileage allowed		Mileage allowed
To A Temporary Work Location	Mileage allowed	Mileage allowed	Mileage allowed to a second temporary location

Home Location: The place where you reside. Transportation expenses between your home and your principal place of work are personal commuting expenses and are not reimbursed.

Primary Work Location: This is your principal place of work.

Temporary Work Location: This is for personal vehicle miles driven going from home or one work location to another in the course of your business day, such as a business meeting or luncheon, training or travel to the airport. Payment for mileage to move between temporary work locations is at the discretion of the county official or department head.

If traveling, incidental miles driven at the destination may be submitted for payment with other travel miles upon return. Incidental miles should be reasonable.

Personal vehicle travel on official county business will be reimbursed at the lower of 1.) the most appropriate airline rate plus the cost of a rental car or 2.) the calculated cost for total business miles driven. Cost analysis is to be performed by the employee and approved by the elected official or department head.

If two or more employees are traveling in the same private vehicle, only one mileage allowance will be paid or reimbursed.

At times, more than one vehicle may be required for traveling for official county business. The reasonableness of additional mileage allowances is to be considered by the elected official/department head for reimbursement.



In addition to mileage reimbursement, the county will reimburse parking and tolls incurred in the course of traveling for official county business with proper support documentation.

If the employee is *only* claiming mileage from use of a personal vehicle, the Detail of Mileage Claims Form shall be completed and submitted with proper support documentation.

If mileage is in occurrence with other expenses, such as air fare, hotel, meals, etc., the Galveston County Expense Report shall be used.

4.3.4 Other Transportation

Taxi, shuttle or other transportation may be an authorized expense when necessary as determined by the county official or department head. Reimbursement of reasonable expenses is allowed with proper support documentation.

4.4 Lodging

The actual cost of lodging, including hotel taxes, will be paid or reimbursed for a traveling employee on official county business. It is encouraged, when possible, to make hotel reservations using a county procurement card.

Accommodations should be the most reasonable available at the time of the stay. The employee should always seek any discounts available, including requesting government rates.

An employee may stay at the home of a friend or family, but there will be no payment or reimbursement for lodging.

The county will only pay or reimburse the single person cost of the lodging for the employee if there is only one employee staying in the room. If there are two or more employees staying in the room, the cost of the room should be paid by one employee and not allocated. If the expenses need to be allocated, the County Auditor will perform the allocation. If there is a cost for a non-employee lodger staying in the room with an employee, the county will only reimburse or pay the single room rate.

The county will not pay or reimburse the employee for additional lodging not considered a part of the business trip (i.e., personal trip or vacation).

If an employee has an emergency requiring a change in the length of the stay, any additional charges incurred, within reason, are allowable for payment or reimbursement.

4.5 Travel Meals and Incidentals

Travel meals and incidentals will be reimbursed based on a per diem basis for overnight travel, unless paid for by a P-Card not to exceed the per diem daily rate, and an actual basis for day travel. Per diem rates are set annually by the General Services Administration (GSA) and are presented to Commissioners Court for adoption annually.

Travel meals may be paid or reimbursed for each day the employee is on travel status.

Meals will not be paid or reimbursed for travel if the travel meal was purchased within Galveston County.

A travel meal purchased by the employee for friends, family, other employees or county officials will not be paid or reimbursed.



Travel meals provided by a third party will not be paid or reimbursed.

Travel meals at professional meetings billed separately from the registration will be paid or reimbursed.

The county will pay or reimburse travel meals for only the employee with the exception of inmate transport. A meal may be provided to an employee if the inmate requires a meal while being transported, even if the employee is in Galveston County. The employee's meal will not be subject to payroll taxation. Both meals will be paid or reimbursed.

4.5.1 Day Travel Meals

Day travel meals will be reimbursed based on actual expenses, not per diem rates. Employees shall avoid sales tax as Galveston County is a tax exempt entity. An itemized receipt must be submitted as support to the Galveston County Expense Report to be reimbursed for day travel meals and incidentals.

Incidentals include tips and should be itemized when submitted. Tips will be paid or reimbursed at a maximum of 20%; tips at fast food establishments are not reimbursed.

Only one employee per receipt can be submitted. The Galveston County Expense Report and itemized meal receipts shall be submitted with the employee's payroll, approved by the county official or department head and County Auditor, to be reimbursed for day travel meals outside of Galveston County.

Per IRS Publication 5137, the cost for meals incurred while attending an event **not requiring an overnight stay** is considered taxable income. Employees will be reimbursed through payroll for the exact cost of their meal in gross pay before payroll taxes and withholdings are deducted.

4.5.2 Overnight Travel Meals

Employee meals will be reimbursed on a per diem basis for meals and incidentals during overnight travel unless meals are paid for by a county procurement card. If so, activity on the P-Card cannot exceed the per diem daily rate. Incidentals include all taxes and tips related to travel. The county per diem rate is \$45 per day (\$10 – breakfast, \$13 – lunch, \$22 – dinner). If approved by the County Auditor, the rate set by the GSA may be applied instead of the county's set rate.

The per diem meal allowance for the specified meal provided will not be paid or reimbursed to employees when meals are provided by a third party or conference, unless there is a medical reason for not accepting the provided meal.

The per diem meal allowance for the first and last day of travel will be prorated according to time of travel. For example, if travel starts after 10:00 AM, \$10 for breakfast shall be deducted from the \$45 per diem rate. Meals will not be paid for the first day of a trip when an employee departs after 7:00 PM.

The County Auditor shall notify Commissioners Court of the GSA per diem allowable rate each year by January 1 and publish the county adopted per diem rate on the county website.

Receipts are not required for per diem meals and incidentals unless expenditure is under a grant project. Grant travel expenditures require submission of actual receipts.



Room service charged to the hotel room is not allowed and will not be reimbursed.

4.6 Business Meals

Business meals are not considered travel meals and will be reimbursed for actual meal costs; not on a per diem basis. Any employee found to be submitting duplicate requests for reimbursement for business meals via per diem and actual meal costs is subject to disciplinary action, up to and including termination and possible prosecution.

Business meals may take place locally or while traveling on official county business. Business meals where official county business is conducted will be reimbursed upon presentation of the following required documentation:

- Galveston County Expense Report
- An itemized/detailed receipt
- Legible documentation identifying the persons attending with their associated title or affiliation and an explanation of the county business conducted. Lack of a clear business purpose will result in the request being returned and/or denied.

Alcoholic beverages including related tax and tip will not be reimbursed. Reasonable tips not exceeding 20% on business meals will be reimbursed.

4.7 Miscellaneous Expenses

4.7.1 Reimbursable Miscellaneous Expenses

Miscellaneous expenses while traveling that will be paid or reimbursed include:

- Internet connectivity charges for county-provided equipment.
- Charges for business-related telephone calls. This does not include charges for use of a personal cell phone, even if the call is for business.
- Excess baggage charges will be paid or reimbursed only when transporting county materials.
- Reasonable laundry service charges necessary due to travel exceeding one week.
- Tolls and parking fees.
- Valet parking, if this is the only or cheapest parking option offered by the hotel or conference, support documentation of parking rates must be provided.

Parking expense is permitted and reimbursable with proper documentation. If the toll/parking cost is \$6.00 or less for the entire trip, no receipt is required. If more than \$6.00, a receipt will be required for reimbursement; however, if a receipt is not given, such as a parking meter, a written explanation as to such must be provided.

4.7.2 Non-Reimbursable Miscellaneous Expenses

Miscellaneous expenses while traveling that will not be paid or reimbursed include:

- Alcoholic beverages including related tax and tip
- Pet care expenses
- Personal travel insurance
- Early Bird Check In flight fees
- Insurance coverage for privately owned vehicles
- Expenses for the repairs of privately owned vehicles
- Interest charges levied on overdue invoices or credit card statements
- Personal expenses, such as barbers, hairdressers, toiletry items, health club fees, prescriptions and non-prescription medications



- Hotel pay-per-view video and mini-bar expenses
- Expenses related to lost or stolen items
- ATM fees
- Entertainment expenses, even if offered by the conference for an extra fee
- Snacks, gum, candy bars, etc.
- Use of a personal cell phone to make calls
- In general, personal expenses are not reimbursable and are assumed to include any expenses which are not a necessary consequence of travel on behalf of the county.

4.8 Travel Advances

The county may provide advances for travel based on the estimated cost of the travel. Travel advances shall be documented and accounted for on the Galveston County Expense Report when the employee is requesting reimbursement for additional expenses incurred during travel.

4.9 Death or Injury While Traveling

If an employee dies due to illness or injury not induced by personal misconduct during official travel, the county will pay all transportation expenses to return the employee. The employee's next of kin may travel at county expense to make necessary arrangements. Expenses will be reimbursed according to the *Galveston County Travel Policy* and this county procedure. If injured while traveling, the injury must be reported to the department head and County Legal Department. If death, serious injury or grave illness occurs in an employee's immediate family, the employee is authorized to immediately return at county expense.



Travel Expense Reimbursement Procedure: Forms

		Accounting for Expenditures
Effective Date: 01/01/2018	Last Revision: 11/27/2017	Page 8 of 12

- 1.0 Galveston County Expense Report and Instructions
- 2.0 Galveston County Expense Report Example
- 3.0 Detail of Mileage Claims Form

Instructions for Galveston County Expense Report

Header section:

1. Enter Payee Name, PEID #, Department, Selected Address Code, PO# and PR#.
2. Enter the purpose, destination and travel dates of the trip.

Table:

3. Enter ALL expenses that were incurred on the trip. If an expense will not be reimbursed to the employee because it was paid by the county before the trip, the total amount will go in the *Paid By County* cell.
4. Include a *Date* for each day of the trip. If multiple expenses are incurred in one day, they should each be on a separate line. For example, meals and hotel for one day will be on two separate lines with the same date.
5. Enter the *Object Code* where the individual expense is to be charged.
6. Enter a *Description* of the expense to help identify the reason for the travel expense.
7. If a *Hotel* charge was made on an overnight travel, include the total cost of the hotel including all taxes and occupancy fees.
8. When claiming *Mileage* use one line for the entire mileage of the trip. Calculate the total mileage to be claimed by multiplying the total miles driven times the current IRS mileage rate. In the Notes section at the bottom of the form, show the mileage x IRS rate per mile. Example: 123 x .54 = \$66.42
9. Show any *Fuel* costs for which you have attached receipts.
10. For *Meals* report \$45 per diem for each day. If any meals were provided by the conference, deduct the appropriate meal per diem amount (\$10 - breakfast, \$13 - lunch, \$22 -dinner). Based on the time of travel, per diem will also be reduced accordingly. Include the conference agenda, that includes the meals provided, with the support documentation.
11. In the *Phone* column, enter the amount for a purchased phone card. Include the receipt and phone card used on the trip. If there are any unused minutes on the card, they will be utilized by future travelers.
12. Enter in the total cost of the *Conference*. Include the conference registration form with the support documentation.
13. In the *Miscellaneous* column, include all expenses not reportable in the other columns. Include receipts for all payments.
14. The *Total* column is calculated with formulas.
15. In the *Paid By County* cell, enter any expenses that were previously paid by the county on a P-Card or Purchase Order (i.e. conference registrations, hotels, etc.). These amounts should be noted in the description field as (pd. by cnty). This amount will be deducted out of the Subtotal (total cost of the trip) to give the Total amount to be reimbursed. All receipts/support documents that were paid for by the county should be noted "paid by county."
16. In the *Advances* cell, enter the amount of travel advances paid to you by the county. This amount will be deducted out of the subtotal to give the total reimbursable amount.

Signatures:

17. After printing the form, both the employee requesting reimbursement and the department head must sign before submission.

Galveston County Expense Report Example

Payee Name John Doe
 PEID # 1234
 Purpose TACA On the Road Area Training

Department Auditor's Office
 Selected Address Code _____
 Destination Bastrop, TX

PO# _____
 PR # _____
 Travel Dates: From 1/15/2016
 To 1/17/2016

Date	Object Code	Description	Hotel	Mileage	Fuel	Meals	Phone	Conference	Misc.	Total
1/16 to 1/17		Conference Registration (pd. by cnty)						\$ 200.00		\$ 200.00
1/15 to 1/17		Holiday Inn Express (pd. by cnty)	\$ 175.32							\$ 175.32
1/15/2016		Per diem meals				\$ 22.00				\$ 22.00
1/15 to 1/17		Miles driven		\$ 197.64						\$ 197.64
1/16/2016		Parking							\$ 20.00	\$ 20.00
1/16/2016		Per diem meals				\$ 35.00				\$ 35.00
1/17/2016		Per diem meals				\$ 23.00				\$ 23.00
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
										\$ -
			\$ 175.32	\$ 197.64	\$ -	\$ 80.00	\$ -	\$ 200.00	\$ 20.00	

Subtotal \$ 672.96
Paid By County \$ 375.32
Advances \$ 150.00
Total \$ 147.64

Employee Signature: _____ **Date:** _____
Department Head Signature: _____ **Date:** _____

NOTES: 366 miles x .54 = \$197.64 (roundtrip)



**THE COUNTY OF GALVESTON
DETAIL OF MILEAGE CLAIMS**

DATE: _____ NAME: _____ PO # _____
PEID: _____ PR # _____

DATE USED	DEPARTURE POINT	DESTINATION	PURPOSE OF TRIP	TOTAL MILES

Total Mileage This Page..... 0.00

0.0 Miles x \$0.535 Mileage Due = \$.00

I, the undersigned, do solemnly swear that my personal automobile was used for the above trip(s) in pursuit of my assigned duties, and that said mileage has not heretofore been paid.

Print Name

Employee Signature

Account Number

Department Head Signature