

RESOLUTION _____

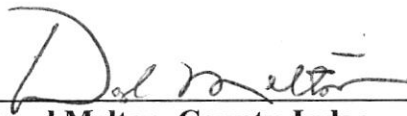
WHEREAS, the County of Sabine is periodically awarded federal/state grant funds through the U.S. Department of Housing and Urban Development (HUD), Texas Community Development Block Grants (TxCDBG), and/or various other federal/state agencies; and

WHEREAS, the County wishes to comply with all applicable Financial Management, Procurement and Labor Compliance laws, regulations, rules and guidelines of said federal/state grant funds;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF SABINE COUNTY, TEXAS THAT:

1. The County of Sabine hereby adopts 2 CFR 200, Subpart D, and all referenced Subparts and Appendices as its official Financial Management Policy as related to the use of federal funds; and
2. The County of Sabine hereby adopts 2 CFR 200, Subpart D and all referenced Subparts and Appendices as its official Procurement Policy as related to the use of federal funds; and
3. The County of Sabine agrees to adhere to all guidelines as defined in 2 CFR 200, Subpart D, and all referenced Subparts and Appendices using the procedures outlined and attached hereto as Exhibit A for Financial Management, Procurement and Labor Compliance.

PASSED AND APPROVED this _____ day of _____, 2025.



Daryl Melton, County Judge
County of Sabine, Texas

ATTEST:

County Clerk
County of Sabine, Texas

Exhibit A

Subpart D—Post Federal Award Requirements

§ 200.300 Statutory and national policy requirements.

(a) The Federal agency or pass-through entity must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, applicable Federal statutes and regulations—including provisions protecting free speech, religious liberty, public welfare, and the environment, and those prohibiting discrimination—and the requirements of this part. The Federal agency or pass-through entity must communicate to a recipient or subrecipient all relevant requirements, including those contained in general appropriations provisions, and incorporate them directly or by reference in the terms and conditions of the Federal award.

(b) In administering Federal awards that are subject to a Federal statute prohibiting discrimination based on sex, the Federal agency or pass-through entity must ensure that the award is administered in a way that does not unlawfully discriminate based on sexual orientation or gender identity if the statute's prohibition on sex discrimination encompasses discrimination based on sexual orientation and gender identity consistent with the Supreme Court's reasoning in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

(c) In administering awards in accordance with the U.S. Constitution, the Federal agency must take account of the heightened constitutional scrutiny that may apply under the Constitution's Equal Protection guarantee for government action that provides differential treatment based on protected characteristics.

§ 200.301 Performance measurement.

(a) The Federal agency must measure the recipient's performance to show achievement of program goals and objectives, share lessons learned, improve program outcomes, and foster the adoption of promising practices. The Federal agency should establish program goals and objectives during program planning and design (see § 200.202). The Federal agency should clearly communicate the specific program goals and objectives in the Federal award, including how the Federal agency will measure the achievement of the goals and objectives, the expected timeline, and information on how the recipient must report the achievement of program goals and objectives. The Federal agency should also clearly communicate in the Federal award any expected outcomes (such as outputs, service performance, or public impacts of any of these), indicators, targets, baseline data, or data collections that the recipient is responsible for measuring and reporting. The Federal agency must ensure all requirements for measuring performance align with the Federal agency's strategic goals, strategic objectives, or performance goals relevant to a program (see OMB Circular A-11, Preparation, Submission, and Execution of the Budget Part 6).

(b) When establishing performance reporting frequency and content, the Federal agency should consider what information will be necessary to measure the recipient's progress, to identify promising practices of recipients, and build the evidence upon which the Federal agency makes program and performance decisions. The Federal agency should not require additional information that is not necessary for measuring program performance and evaluation. See § 200.329 for more information on reporting program performance.

(c) The Federal agency should also specify in the Federal award any requirements of the recipients' participation in federally funded evaluations.

§ 200.302 Financial management.

(a) Each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State's funds. All recipient and subrecipient financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by the terms and conditions; and tracking expenditures to establish that funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award. See § 200.450.

(b) The recipient's and subrecipient's financial management system must provide for the following (see §§ 200.334, 200.335, 200.336, and 200.337):

(1) Identification of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number, year the Federal award was issued, and name of the Federal agency or pass-through entity.

(2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements in §§ 200.328 and 200.329. When a Federal agency or pass-through entity requires reporting on an accrual basis from a recipient or subrecipient that maintains its records other than on an accrual basis, the recipient or subrecipient must not be required to establish an accrual accounting system. This recipient or subrecipient may develop accrual data for its reports based on an analysis of the documentation on hand.

(3) Maintaining records that sufficiently identify the amount, source, and expenditure of Federal funds for Federal awards. These records must contain information necessary to identify Federal awards, authorizations, financial obligations, unobligated balances, as well as assets, expenditures, income, and interest. All records must be supported by source documentation.

(4) Effective control over and accountability for all funds, property, and assets. The recipient or subrecipient must safeguard all assets and ensure they are used solely for authorized purposes. See § 200.303.

- (5) Comparison of expenditures with budget amounts for each Federal award.
- (6) Written procedures to implement the requirements of § 200.305.
- (7) Written procedures for determining the allowability of costs in accordance with subpart E and the terms and conditions of the Federal award.

§ 200.303 Internal controls.

The recipient and subrecipient must:

- (a) Establish, document, and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient or subrecipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should align with the guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control-Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal award.
- (c) Evaluate and monitor the recipient's or subrecipient's compliance with statutes, regulations, and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified.
- (e) Take reasonable cybersecurity and other measures to safeguard information including protected personally identifiable information (PII) and other types of information. This also includes information the Federal agency or pass-through entity designates as sensitive or other information the recipient or subrecipient considers sensitive and is consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

§ 200.304 Bonds.

- (a) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Federal agency may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.
- (b) The Federal agency may require adequate fidelity bond coverage where the recipient lacks coverage to protect the interest of the Federal Government.
- (c) Where bonds, insurance, or both are required in the situations described above, the bonds and insurance must be obtained from companies holding certificates of authority issued by the U.S. Department of Treasury (see 31 CFR part 223).

§ 200.305 Federal payment.

- (a) *Payments for States.* Payments for States are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 CFR part 205 and Treasury Financial Manual (TFM) 4A-2000, "Overall Disbursing Rules for All Federal Agencies."

(b) *Payments for recipients and subrecipients other than States.* For recipients and subrecipients other than States, payment methods must minimize the time elapsing between the transfer of funds from the Federal agency or the pass-through entity and the disbursement of funds by the recipient or subrecipient regardless of whether the payment is made by electronic funds transfer or by other means. See § 200.302(b)(6). Except as noted in this part, the Federal agency must require recipients to use only OMB-approved, government-wide information collections to request payment.

(1) The recipient or subrecipient must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient or subrecipient, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a recipient or subrecipient must be limited to the minimum amounts needed and be timed with actual, immediate cash requirements of the recipient or subrecipient in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the recipient or subrecipient for direct program or project costs and the proportionate share of any allowable indirect costs. The recipient or subrecipient must make timely payments to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payment requests by the recipient or subrecipient must be consolidated to cover anticipated cash needs for all Federal awards received by the recipient from the awarding Federal agency or pass-through entity.

(i) Advance payment mechanisms must comply with 31 CFR part 208 and include, but are not limited to, Treasury checks and electronic funds transfers.

(ii) Recipients and subrecipients must be authorized to submit payment requests as often as necessary when electronic fund transfers are used or at least monthly when electronic transfers are not used. See Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

(3) Reimbursement is preferred when the requirements in paragraph (b) cannot be met, when the Federal agency or pass-through entity sets a specific condition per § 200.208, when requested by the recipient or subrecipient, when a Federal award is for construction, or when a significant portion of the construction project is accomplished through private market financing or Federal loans and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal agency or pass-through entity must make payment within 30 calendar days after receipt of the payment request unless the Federal agency or pass-through entity reasonably believes the request to be improper.

(4) If the recipient or subrecipient cannot meet the criteria for advance payments and the Federal agency or pass-through entity has determined that

reimbursement is not feasible because the recipient or subrecipient lacks sufficient working capital, the Federal agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal agency or pass-through entity must advance cash payments to the recipient or subrecipient to cover its estimated disbursement needs for an initial period generally aligned to the recipient's or subrecipient's disbursing cycle. After that, the Federal agency or pass-through entity must reimburse the recipient or subrecipient for its actual cash disbursements. Use of the working capital advance payment method requires that the pass-through entity provide timely advance payments to any subrecipients to meet the subrecipient's actual cash disbursements. The pass-through entity must not use the working capital advance method of payment if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) If available, the recipient or subrecipient must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on Federal funds before requesting additional cash payments.

(6) Payments for allowable costs must not be withheld at any time during the period of performance unless required by Federal statute, regulations, or in one of the following instances:

- (i) The recipient or subrecipient has failed to comply with the terms and conditions of the Federal award; or
- (ii) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal agency or pass-through entity may, after providing reasonable notice, withhold payments to the recipient or subrecipient for financial obligations incurred after a specified date until the conditions are corrected or the debt is repaid to the Federal Government.

(7) A payment withheld for failure to comply with the terms and conditions of the Federal award must be released to the recipient or subrecipient upon subsequent compliance. When a Federal award is suspended, payment adjustments must be made in accordance with § 200.343.

(8) A payment must not be made to a recipient or subrecipient for amounts that the recipient or subrecipient withholds from contractors to assure satisfactory completion of work. Payment must be made when the recipient or subrecipient disburses the withheld funds to the contractors or to escrow accounts established to ensure satisfactory completion of work.

(9) The Federal agency or pass-through entity must not require separate depository accounts for funds provided to the recipient or subrecipient or establish any eligibility requirements for depositories. However, the recipient or

subrecipient must be able to account for all Federal funds received, obligated, and expended.

(10) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(11) The recipient or subrecipient must maintain advance payments of Federal funds in interest-bearing accounts unless one of the following applies:

(i) The recipient or subrecipient receives less than \$250,000 in Federal funding per year;

(ii) The best available interest-bearing account would not reasonably be expected to earn interest in excess of \$500 per year on Federal cash balances;

(iii) The depository would require an average or minimum balance so high that it would not be feasible with the expected Federal and non-Federal cash resources;

(iv) A foreign government or banking system prohibits or precludes interest-bearing accounts; or

(v) An interest-bearing account is not readily accessible (for example, due to public or political unrest in a foreign country).

(12) The recipient or subrecipient may retain up to \$500 per year of interest earned on Federal funds to use for administrative expenses of the recipient or subrecipient. Any additional interest earned on Federal funds must be returned annually to the Department of Health and Human Services Payment Management System (PMS) through either the Automated Clearing House (ACH) network or a Fedwire Funds Service payment. All interest in excess of \$500 per year must be returned to PMS regardless of whether the recipient or subrecipient was paid through PMS. Instructions for returning interest can be found at <https://pms.psc.gov/grant-recipients/returning-funds-interest.html>.

(13) All other Federal funds must be returned to the payment system of the Federal agency. Returns should follow the instructions provided by the Federal agency. All returns to PMS should follow the instructions provided at <https://pms.psc.gov/grant-recipients/returning-funds-interest.html>.

§ 200.306 Cost sharing.

(a) Voluntary committed cost sharing is not expected under Federal research grants. The Federal agency may not use voluntary committed cost sharing as a factor during the merit review of applications or proposals for Federal research grants unless authorized by Federal statutes or agency regulations and specified in the notice of funding opportunity. Federal agencies are also discouraged from using voluntary committed cost sharing as a factor during the merit review of applications for other Federal financial assistance programs. If voluntary committed cost sharing is used for this purpose for other programs, the notice of funding opportunity must specify how an applicant's proposed cost sharing will be considered. See §§ 200.414, 200.204, and Appendix I.

(b) For all Federal awards, the Federal agency or pass-through entity must accept any cost sharing funds (including cash and third-party in-kind contributions, and also including funds committed by the recipient, subrecipient, or third parties) as part of the recipient's or subrecipient's contributions to a program when the funds:

- (1) Are verifiable in the recipient's or subrecipient's records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for achieving the objectives of the Federal award;
- (4) Are allowable under subpart E;
- (5) Are not paid by the Federal Government under another Federal award, except where the program's Federal authorizing statute specifically provides that Federal funds made available for the program can be applied to cost sharing requirements of other Federal programs;
- (6) Are provided for in the approved budget when required by the Federal agency; and
- (7) Conform to other applicable provisions of this part.

(c) Unrecovered indirect costs, including indirect costs on cost sharing, may be included as part of cost sharing with the prior approval of the Federal agency or pass-through entity. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the recipient's or subrecipient's approved indirect cost rate.

(d) Values for recipient or subrecipient contributions of services and property must be established in accordance with the cost principles in subpart E. When a Federal agency or pass-through entity authorizes the recipient or subrecipient to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing must be the lesser of paragraph (d)(1) or (2) below.

- (1) The value of the remaining life of the property recorded in the recipient's or subrecipient's accounting records at the time of donation.
- (2) The current fair market value. However, when there is sufficient justification, the Federal agency or pass-through may approve using the current fair market value of the donated property, even if it exceeds the value described in paragraph (d)(1) at the time of donation.

(e) Volunteer services furnished by third-party professional and technical personnel, consultants, and other labor may be counted as cost sharing if the service is necessary for the program. Rates for third-party volunteer services must be consistent with those paid for similar work by the recipient or subrecipient. When the required skills are not found in the recipient's or subrecipient's workforce, rates must be consistent with those paid for similar work in the labor market where the recipient or subrecipient competes for the services involved. In either case, fringe benefits that are allowable, allocable, and reasonable may be included in the valuation.

(f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and

indirect costs at either the third-party organization's approved federally-negotiated indirect cost rate or, a rate in accordance with § 200.414(d) provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

(g) Donated property from third parties may include items such as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. The assessed value of donated property included as cost sharing must not exceed the property's fair market value at the time of the donation.

(h) The method used for determining the value of donated equipment, buildings, and land for which title passes to the recipient or subrecipient may differ according to the following:

(1) If the purpose of the Federal award is to assist the recipient or subrecipient in acquiring equipment, buildings, or land, the aggregate value of the donated property may be claimed as cost sharing.

(2) If the purpose of the Federal award is to support activities that require the use of equipment, buildings, or land, only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed if provided in the terms and conditions of the Federal award. See § 200.420.

(i) The value of donated property must be determined in accordance with the accounting policies of the recipient or subrecipient with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the recipient or subrecipient as established by an independent appraiser (for example, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient or subrecipient as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) except as provided in the implementing regulations at 49 CFR part 24, "Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs."

(2) The value of donated equipment must not exceed the fair market value at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

(j) The fair market value of third-party in-kind contributions must be documented and, to the extent feasible, supported by the same methods used internally by the recipient or subrecipient.

(k) For institutions of higher education (IHE), voluntary uncommitted cost sharing should be treated differently from mandatory or voluntary committed cost sharing. Voluntary uncommitted cost sharing should not be included in the organized research base for computing the indirect cost rate or reflected in any allocation of indirect

costs. Voluntary uncommitted cost sharing includes faculty-donated additional time above that agreed to as part of the award. See OMB memorandum M-01-06, dated January 5, 2001, Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs.

§ 200.307 Program income.

(a) *General.* The recipient or subrecipient is encouraged to earn income to defray program costs when appropriate. Program income must be used for the original purpose of the Federal award. Program income earned during the period of performance may only be used for costs incurred during the period of performance or allowable closeout costs. See § 200.472(b). Program income must be expended prior to requesting additional Federal funds. Program income exceeding amounts specified in the Federal award may be added to or deducted from the total allowable costs in accordance with the terms and conditions of the Federal award.

(b) *Use of program income.* There are three methods of applying program income: deduction; addition; and cost-sharing. The Federal agency should specify what program income method(s) will be used in the terms and conditions of the Federal award. The deduction method will be used if the Federal agency does not specify a method for applying program income. When no program income method is specified in the Federal award, prior approval is required to use the addition or cost sharing methods. However, the addition method will be used when no method is specified for awards made to institutions of higher education (IHE) and nonprofit research institutions. In specifying alternatives to the deduction and addition methods, the Federal agency may distinguish between income earned by the recipient and income earned by subrecipients as well as between the sources, kinds, or amounts of income.

(1) *Deduction.* Program income is deducted from the total allowable costs, reducing the overall total amount of the Federal award.

(2) *Addition.* Program income is added to the total allowable costs, increasing the overall total amount of the Federal award.

(3) *Cost sharing.* Program income is used to meet the Federal award's cost sharing requirement.

(c) *Income after the period of performance.* There are no requirements governing the disposition of program income earned after the end of the period of performance of the Federal award unless stipulated in the Federal agency regulations or the terms and conditions of the Federal award. The Federal agency may negotiate agreements with recipients regarding appropriate uses of income earned after the end of the period of performance as part of the closeout process. See § 200.344.

(d) *Cost of generating program income.* If authorized by Federal regulations or the Federal award, costs incidental to generating program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

(e) *Not considered program income.* The following are not considered program income unless specified in Federal statutes, regulations, or the terms and conditions of the Federal award:

(1) *Governmental revenues.* Taxes, special assessments, levies, fines, and similar revenues the recipient or subrecipient raised.

(2) *Property.* Proceeds from the sale of real property, equipment, or supplies. The proceeds must be handled in accordance with the requirements of the Property Standards of §§ 200.311, 200.313, 200.314, or as explicitly identified in Federal statutes, regulations, or the terms and conditions of the Federal award.

(3) *License fees and royalties.* License fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under the Federal award subject to 37 CFR part 401.

§ 200.308 Revision of budget and program plans.

(a) *Approved budget in general.* The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include the Federal share and non-Federal share or only the Federal share, as determined by the Federal agency or pass-through entity.

(b) *Deviations from approved budget.* The recipient or subrecipient must report deviations from the approved budget, project or program scope, or objective(s) in accordance with § 200.329. The recipient or subrecipient must request prior approvals from the Federal agency or pass-through entity for budget and program plan revisions in accordance with this section.

(c) *Requesting approval for budget revisions.* When requesting approval for budget revisions, the recipient or subrecipient must use the same format for budget information that was used in their application, except if the Federal agency has approved an alternative format. Alternative formats may include the use of electronic systems, email, or other agency-approved mechanisms that document the request.

(d) *Federal agency or pass-through entity review.* The Federal agency or pass-through entity must review the request for budget or program plan revision and should notify the recipient or subrecipient whether the revisions have been approved within 30 days of receipt of the request. The Federal agency or pass-through entity must inform the recipient or subrecipient in writing when a decision can be expected if more than 30 days is required for a review.

(e) *Limitation on other prior approval requirements.* Unless specified in this guidance, the Federal agency must not impose additional prior approval requirements without OMB approval. See also §§ 200.102 and 200.407.

(f) *Revisions Requiring Prior Approval.* A recipient or subrecipient must request prior written approval from the Federal agency or pass-through entity for the following program and budget-related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

- (2) Change in key personnel (including employees and contractors) that are identified by name or position in the Federal award.
- (3) The disengagement from a project for more than three months, or a 25 percent reduction in time and effort devoted to the Federal award over the course of the period of performance, by the approved project director or principal investigator.
- (4) The inclusion, unless waived by the Federal agency, of costs that require prior approval in accordance with subpart E as applicable.
- (5) The transfer of funds budgeted for participant support costs to other budget categories.
- (6) Subaward activities not proposed in the application and approved in the Federal award. A change of subrecipient only requires prior approval if the Federal agency or pass-through entity includes the requirement in the terms and conditions of the Federal award. In general, a Federal agency or pass-through entity should not require prior approval of a change of subrecipient unless the inclusion was a determining factor in the merit review or eligibility process. This requirement does not apply to procurement transactions for goods and services.
- (7) Changes in the total approved cost-sharing amount.
- (8) The need arises for additional Federal funds to complete the project. Before providing approval, the Federal agency must ensure that adequate funds are available to avoid a violation of the Antideficiency Act.
- (9) Transferring funds between the construction and non-construction work under a Federal award.
- (10) A no-cost extension (meaning, an extension of time that does not require the obligation of additional Federal funds) of the period of performance, other than any one-time extension authorized by the Federal agency in accordance with paragraph (g)(2). All requests for no-cost extensions should be submitted at least 10 calendar days before the conclusion of the period of performance. The Federal agency may approve multiple no-cost extensions under a Federal award if not prohibited by Federal statute or regulation.

(g) *Waiver of certain prior approvals.* Except for the requirements listed in paragraphs (f)(1) through (10), the Federal agency is authorized to waive other cost-related and administrative prior written approval requirements contained in subparts D and E. Such waivers may include authorizing recipients to do one or more of the following:

- (1) *Pre-award costs.* Incur project costs 90 calendar days before the Federal award date. Expenses incurred more than 90 calendar days before the Federal award date require prior approval of the Federal agency. All costs incurred before the Federal award date are at the recipient's own risk (*for example*, the Federal agency is not required to reimburse such costs if the recipient does not receive the Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). Pre-award costs must be charged to the initial budget period of the Federal award unless otherwise specified by the Federal agency. See also § 200.458.

(2) *One-time extensions.* Initiate a one-time extension of the period of performance by up to 12 months unless one or more of the conditions outlined in paragraphs (g)(2)(i) through (iii) of this section apply. Prior approval is not required if a recipient is authorized in the terms and conditions of the Federal award to initiate a one-time extension. However, the recipient must notify the Federal agency in writing with the supporting justification and a revised period of performance at least 10 calendar days before the conclusion of the period of performance. A one-time extension may not be exercised for the sole purpose of using unobligated balances. This paragraph does not preclude the Federal agency from approving further no-cost extensions to the Federal award. One-time extensions require prior approval from the Federal agency when:

- (i) The terms and conditions of the Federal award prohibit the extension;
- (ii) The extension requires additional Federal funds; or
- (iii) The extension involves any change in the approved scope of the project.

(3) *Unobligated Balances.* Carry forward unobligated balances to subsequent budget periods.

(h) *Prior approvals for research awards.* The prior approval requirements for the actions described in paragraph (g) of this section are automatically waived for Federal awards that support research unless stipulated in the Federal agency's regulations or terms and conditions of the Federal award. However, one-time extensions require the Federal agency's prior approval when one of the conditions in paragraph (g)(2) of this section applies.

(i) *Transfer of funds.* The Federal agency must not permit a transfer of funds that would cause any Federal appropriation to be used for purposes other than those consistent with the appropriation. The Federal agency may also, at its option, restrict the transfer of funds among direct cost categories (for example, personnel, travel, and supplies) or programs, functions, and activities when:

- (1) The Federal share of the Federal award exceeds the simplified acquisition threshold; and
- (2) The cumulative amount of a transfer exceeds or is expected to exceed 10 percent of the total budget, including cost share, as last approved by the Federal agency.

§ 200.309 Modifications to Period of Performance.

When the Federal agency or pass-through entity approves an extension to a Federal award, or if a recipient extends under § 200.308(g)(2), the period of performance will be amended to end at the completion of the extension. If termination occurs, the period of performance will be amended to end upon the effective date of termination. The start date of a renewal award begins a new and distinct period of performance.

Procurement Standards

§ 200.317 Procurements by States and Indian Tribes.

When conducting procurement transactions under a Federal award, a State or Indian Tribe must follow the same policies and procedures it uses for procurements with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

(a) *Documented procurement procedures.* The recipient or subrecipient must maintain and use documented procedures for procurement transactions under a Federal award or subaward, including for acquisition of property or services. These documented procurement procedures must be consistent with State, local, and tribal laws and regulations and the standards identified in §§ 200.317 through 200.327.

(b) *Oversight of contractors.* Recipients and subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. See also § 200.501(h).

(c) *Conflicts of interest.*

(1) The recipient or subrecipient 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, agent, or board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by the Federal award. A conflict of interest includes when the employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that 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 an entity considered for a contract. An employee, officer, agent, and board member of the recipient or subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors. However, the recipient or subrecipient may set standards for situations where the financial interest is not substantial or a gift is an unsolicited item of nominal value. The recipient's or subrecipient's standards of conduct must also provide for disciplinary actions to be applied for violations by its employees, officers, agents, or board members.

(2) If the recipient or subrecipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian Tribe, the recipient or subrecipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient or subrecipient is unable or appears to be unable to

be impartial in conducting a procurement action involving a related organization.

(d) *Avoidance of unnecessary or duplicative items.* The recipient's or subrecipient's procedures must avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. When appropriate, an analysis should be made between leasing and purchasing property or equipment to determine the most economical approach.

(e) *Procurement arrangements using strategic sourcing.* When appropriate for the procurement or use of common or shared goods and services, recipients and subrecipients are encouraged to enter into State and local intergovernmental agreements or inter-entity agreements for procurement transactions. These or similar procurement arrangements using strategic sourcing may foster greater economy and efficiency. Documented procurement actions of this type (using strategic sourcing, shared services, and other similar procurement arrangements) will meet the competition requirements of this part.

(f) *Use of excess and surplus Federal property.* The recipient or subrecipient is encouraged to use excess and surplus Federal property instead of purchasing new equipment and property when it is feasible and reduces project costs.

(g) *Use of value engineering clauses.* When practical, the recipient or subrecipient is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering means analyzing each contract item or task to ensure its essential function is provided at the overall lowest cost.

(h) *Responsible contractors.* The recipient or subrecipient must award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract. The recipient or subrecipient must consider contractor integrity, public policy compliance, proper classification of employees (see the Fair Labor Standards Act, 29 U.S.C. 201, chapter 8), past performance record, and financial and technical resources when conducting a procurement transaction. See also § 200.214.

(i) *Procurement records.* The recipient or subrecipient must maintain records sufficient to detail the history of each procurement transaction. These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.

(j) *Time-and-materials type contracts.*

(1) The recipient or subrecipient 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 recipient or subrecipient 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) Because 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 recipient or subrecipient awarding such a contract must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) *Settlement of contractual and administrative issues.* The recipient or subrecipient is responsible for the settlement of all contractual and administrative issues arising out of its procurement transactions. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the recipient or subrecipient of any contractual responsibilities under its contracts. The Federal agency will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern. The recipient or subrecipient must report violations of law to the Federal, State, or local authority with proper jurisdiction.

(l) *Examples of labor and employment practices.*

(1) The procurement standards in this subpart do not prohibit recipients or subrecipients from:

- (i) Using Project Labor Agreements (PLAs) or similar forms of pre-hire collective bargaining agreements;
- (ii) Requiring construction contractors to use hiring preferences or goals for people residing in high-poverty areas, disadvantaged communities as defined by the Justice40 Initiative (see OMB Memorandum M-21-28), or high-unemployment census tracts within a region no smaller than the county where a federally funded construction project is located. The hiring preferences or goals should be consistent with the policies and procedures of the recipient or subrecipient, and must not prohibit interstate hiring;
- (iii) Requiring a contractor to use hiring preferences or goals for individuals with barriers to employment (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24)), including women and people from underserved communities as defined by Executive Order 14091;
- (iv) Using agreements intended to ensure uninterrupted delivery of services; using agreements intended to ensure community benefits; or
- (v) Offering employees of a predecessor contractor rights of first refusal under a new contract.

(2) Recipients and subrecipients may use the practices listed in paragraph (1) if consistent with the U.S. Constitution, applicable Federal statutes and regulations, the objectives and purposes of the applicable Federal financial assistance program, and other requirements of this part.

§ 200.319 Competition.

- (a) All procurement transactions under the Federal award must be conducted in a manner that provides full and open competition and is consistent with the standards of this section and § 200.320.
- (b) To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids must be excluded from competing on those procurements.
- (c) Examples of situations that may restrict competition include, but are not limited to:
- (1) Placing unreasonable requirements on firms 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.
- (d) The recipient or subrecipient must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
- (1) Are made in accordance with § 200.319(b);
 - (2) Incorporate a clear and accurate description of the technical requirements for the property, equipment, or service being procured. The description may include a statement of the qualitative nature of the property, equipment, or service to be procured. When necessary, the description must provide minimum essential characteristics and standards to which the property, equipment, or service must conform. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to clearly and accurately describe the technical requirements, a "brand name or equivalent" description of features may be used to provide procurement requirements. The specific features of the named brand must be clearly stated; and
 - (3) Identify any additional requirements which the offerors must fulfill and all other factors that will be used in evaluating bids or proposals.
- (e) The recipient or subrecipient must ensure that all prequalified lists of persons, firms, or products used in procurement transactions are current and include enough qualified sources to ensure maximum open competition. When establishing or amending prequalified lists, the recipient or subrecipient must consider objective factors that evaluate price and cost to maximize competition. The recipient or subrecipient must not preclude potential bidders from qualifying during the solicitation period.

(f) To the extent consistent with established practices and legal requirements applicable to the recipient or subrecipient, this subpart does not prohibit recipients or subrecipients from developing written procedures for procurement transactions that incorporate a scoring mechanism that rewards bidders that commit to specific numbers and types of U.S. jobs, minimum compensation, benefits, on-the-job-training for employees making work products or providing services on a contract, and other worker protections. This subpart also does not prohibit recipients and subrecipients from making inquiries of bidders about these subjects and assessing the responses. Any scoring mechanism must be consistent with the U.S. Constitution, applicable Federal statutes and regulations, and the terms and conditions of the Federal award.

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

§ 200.320 Procurement methods.

There are three types of procurement methods described in this section: informal procurement methods (for micro-purchases and simplified acquisitions); formal procurement methods (through sealed bids or proposals); and noncompetitive procurement methods. For any of these methods, the recipient or subrecipient must maintain and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319.

(a) *Informal procurement methods for small purchases.* These procurement methods expedite the completion of transactions, minimize administrative burdens, and reduce costs. Informal procurement methods may be used when the value of the procurement transaction under the Federal award does not exceed the simplified acquisition threshold as defined in § 200.1. Recipients and subrecipients may also establish a lower threshold. Informal procurement methods include:

(1) *Micro-purchases* —

(i) *Distribution.* The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold defined in § 200.1. To the extent practicable, the recipient or subrecipient should distribute micro-purchases equitably among qualified suppliers.

(ii) *Micro-purchase awards.* Micro-purchases may be awarded without soliciting competitive price or rate quotations if the recipient or subrecipient considers the price reasonable based on research, experience, purchase history, or other information; and maintains documents to support its conclusion. Purchase cards may be used as a method of payment for micro-purchases.

(iii) *Micro-purchase thresholds.* The recipient or subrecipient is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the recipient or subrecipient must be authorized or not prohibited under State, local, or tribal laws or regulations. The recipient or subrecipient may establish a threshold higher than the Federal

threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

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

- (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
- (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- (C) For public institutions, a higher threshold is consistent with State law.

(v) *Recipient or subrecipient increase to the micro-purchase threshold over \$50,000.* Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The recipient or subrecipient must submit a request that includes the requirements in paragraph (a)(1)(iv) of this section. The increased threshold is valid until any factor that was relied on in the establishment and rationale of the threshold changes.

(2) Simplified acquisitions —

(i) *Simplified acquisition procedures.* The aggregate dollar amount of the procurement transaction is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If simplified acquisition procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate.

(ii) *Simplified acquisition thresholds.* The recipient or subrecipient is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures, which may be lower than, but must not exceed, the threshold established in the FAR.

(b) *Formal procurement methods.* Formal procurement methods are required when the value of the procurement transaction under a Federal award exceeds the simplified acquisition threshold of the recipient or subrecipient. Formal procurement methods are competitive and require public notice. The following formal methods of procurement are used for procurement transactions above the simplified acquisition

threshold determined by the recipient or subrecipient in accordance with paragraph (a)(2)(ii) of this section:

(1) **Sealed bids.** This is a procurement method in which bids are publicly solicited through an invitation and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation and is the lowest in price. The sealed bids procurement method is preferred for procuring construction services.

(i) 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 have been identified as 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 based on price.

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

(A) Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate. For local governments, the invitation for bids must be publicly advertised.

(B) The invitation for bids must define the items or services with specific information, including any required specifications, for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids. For local governments, the bids must be opened publicly.

(D) A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. When specified in the invitation for bids, factors such as discounts, transportation cost, and life-cycle costs must be considered in determining which bid is the lowest. Payment discounts must only be used to determine the low bid when the recipient or subrecipient determines they are a valid factor based on prior experience.

(E) The recipient or subrecipient must document and provide a justification for all bids it rejects.

(2) **Proposals.** This is a procurement method used when conditions are not appropriate for using sealed bids. This procurement method may result in either a fixed-price or cost-reimbursement contract. They are awarded in accordance with the following requirements:

(i) Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered.

(ii) The recipient or subrecipient must have written procedures for conducting technical evaluations and making selections.

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the recipient or subrecipient considering price and other factors; and

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

(c) *Noncompetitive procurement.* There are specific circumstances in which the recipient or subrecipient may use a noncompetitive procurement method. The noncompetitive procurement method may only be used if one of the following circumstances applies:

(1) The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The procurement transaction can only be fulfilled by a single source;

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

(4) The recipient or subrecipient requests in writing to use a noncompetitive procurement method, and the Federal agency or pass-through entity provides written approval; or

(5) After soliciting several sources, competition is determined inadequate.

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

(a) When possible, the recipient or subrecipient should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below.

(b) Such consideration means:

(1) These business types are included on solicitation lists;

- (2) These business types are solicited whenever they are deemed eligible as potential sources;
- (3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
- (4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
- (5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring a contractor under a Federal award to apply this section to subcontracts.

§ 200.322 Domestic preferences for procurements.

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

(b) For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

§ 200.323 Procurement of recovered materials.

(a) A recipient or subrecipient 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 of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the 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.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

§ 200.324 Contract cost and price.

(a) The recipient or subrecipient must perform a cost or price analysis for every procurement transaction, including contract modifications, in excess of the simplified acquisition threshold. The method and degree of analysis conducted depend on the facts surrounding the particular procurement transaction. For example, the recipient or subrecipient should consider potential workforce impacts in their analysis if the procurement transaction will displace public sector employees. However, as a starting point, the recipient or subrecipient must make independent estimates before receiving bids or proposals.

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

(c) The recipient or subrecipient must not use the “cost plus a percentage of cost” and “percentage of construction costs” methods of contracting.

§ 200.325 Federal agency or pass-through entity review.

(a) The Federal agency or pass-through entity may review the technical specifications of proposed procurements under the Federal award if the Federal agency or pass-through entity believes the review is needed to ensure that the item or service specified is the one being proposed for acquisition. The recipient or subrecipient must submit the technical specifications of proposed procurements when requested by the Federal agency or pass-through entity. This review should take place prior to the time the specifications are incorporated into a solicitation document. When the recipient or subrecipient desires to accomplish the review after a solicitation has been developed, the Federal agency or pass-through entity may still review the specifications. In those cases, the review should be limited to the technical aspects of the proposed purchase.

(b) When requested, the recipient or subrecipient must provide procurement documents (such as requests for proposals, invitations for bids, or independent cost estimates) to the Federal agency or pass-through entity for pre-procurement review. The Federal agency or pass-through entity may conduct a pre-procurement review when:

(1) The recipient's or subrecipient'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 is expected to be received in response to a solicitation;
- (3) The procurement is expected to exceed the simplified acquisition threshold and specifies a "brand name" product;
- (4) The procurement is expected to exceed the simplified acquisition threshold, and a sealed bid procurement is to be awarded to an entity other than the apparent low bidder; 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 recipient or subrecipient is exempt from the pre-procurement review in paragraph (b) of this section if the Federal agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The recipient or subrecipient may request that the Federal agency or pass-through entity review its procurement system to determine whether it meets these standards for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding and third-party contracts are awarded regularly.

(2) The recipient or subrecipient may self-certify its procurement system. However, self-certification does not limit the Federal agency's or pass-through entity's right to review the system. Under a self-certification procedure, the Federal agency or pass-through entity may rely on written assurances from the recipient or subrecipient that it is complying with the standards of this part. The recipient or subrecipient must cite specific policies, procedures, regulations, or standards as complying with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

The Federal agency or pass-through entity may accept the recipient's or subrecipient's bonding policy and requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold. Before doing so, the Federal agency or pass-through entity must determine 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 any required contractual documents within the specified timeframe.
- (b) A performance bond on the contractor's part for 100 percent of the contract price. A performance bond is a bond executed in connection with a contract to secure the fulfillment of all the contractor's requirements under a contract.

(c) A payment bond on the contractor's part for 100 percent of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by the law of all persons supplying labor and material in the execution of the work provided for under a contract.

§ 200.327 Contract provisions.

The recipient's or subrecipient's contracts must contain the applicable provisions described in Appendix II of this part.

Sabine County

Procedures for Federal Grant Financial Policies

As required by federal grant contracts, the County has adopted the Financial Management Policies defined in 2 CFR 200 Subpart D and all referenced Subparts and Appendices for managing federal grants. The following procedures reflect how the County implements these policies.

Determining Allowability of Costs

1. Sabine County Commissioners Court will determine that the costs associated with a specific contract for goods or services are allocable to the federal award by confirming that the costs are eligible and will benefit the program. This will be accomplished during the application phase of a grant contract.
2. Prior to expending any funds, the Sabine County Commissioners Court will determine that goods or services are necessary and reasonable for the performance of the grant.
3. Prior to awarding any contract to expend federal grant funds, the County will determine a reasonable cost for the goods or services. County staff will compare similar previous work performed for the County and other localities to determine a reasonable cost. This may also include consulting with professional service providers such as engineering firms when reviewing costs for construction services.
4. The County Treasurer's office will ensure that all costs are incurred within the grant contract period by reviewing all contracts for goods and services and confirming that dates associated with these contracts are within the grant contract period.
5. The County Treasurer's office will maintain all financial documentation associated with the costs of these goods and services including, but not limited to, contracts, invoices, payment requests, payments, bank statements and accounting reports. Funds will also be recorded in the County accounting system using GAAP.

Minimizing Time for Disbursement of Funds

1. Commissioners Court approves all grant fund expenditures when payment request is submitted to funding agency to allow for immediate disbursement of funds upon receipt from funding agency.
2. County Treasurer office monitors the bank account for grants on a daily basis.
3. County Treasurer's Deputy Clerk notifies the County Treasurer when grant funds are received.
4. County Treasurer initiates issuance of payment to vendor within 5 business days. Payments to vendors require two signatures on the check.

Accounting for Advanced Payments and Excess Interest

1. County approves the Request for Payment to the funding agency once an invoice is received and approved. The Request for Payment is equal to invoices provided as supporting documentation.
2. County Treasurer follows the procedure for minimizing time for disbursement of funds to issue payment to vendors as per invoices supporting the request for payment.
3. County Treasurer ensures that all funds received from the funding agency are distributed according to the vendor invoices comprising the request for payment.
4. County Treasurer maintains a general ledger that shows the fund account balance at all times, reflecting the revenue and disbursements are equal and no federal funds remain in the grant account. These transactions are recorded in the County accounting system according to GAAP.
5. County Treasurer places federal grant funds in non-interest-bearing accounts. The County qualifies for this exemption based on the amount of grant funds and projected interest accrued as per 2 CFR200.305.
6. Should funds be placed in an interest-bearing account, the County Treasurer will maintain a calculation of interest generated from federal funds deposited to ensure that any interest generated does not exceed the allowable value. If the interest exceeds the allowable amount, currently \$500, the County Treasurer will follow the process defined in 2 CFR 200.305 for reimbursing this excess interest.

Submitting Costs for Reimbursement

1. County shall utilize Advanced Payment for vendor payments associated with grant funds.
2. County Judge and County Treasurer must approve any payment issued prior to requesting advanced payment from the funding agency.
3. County Treasurer will review all supporting documentation to ensure that the payment will be eligible for reimbursement through the funding agency.
4. County Treasurer will maintain all required supporting documentation for reimbursement including invoices, payment checks, cancelled checks and bank statements.
5. All supporting documentation will be submitted to the funding agency for reimbursement.
6. County will record all transactions in the County accounting system according to GAAP to fully document the use of local funds to pay invoices and the reimbursement of these local funds by the funding agency.

Avoiding Unnecessary or Duplicate Costs

1. Commissioners Court will review each procurement of goods or services in order to avoid unnecessary or duplicative purchases. This includes comparing scope of services when hiring more than one professional service provider and comparing scope of work when awarding a project to multiple contractors.
2. Commissioners Court and County Treasurer will work with professional service providers including, but not limited to, engineers and administrators, to ensure that the scope of work for any construction or materials contracts do not result in duplicative purchases or unnecessary purchases. This includes an analysis of the structure of construction bids, as well as acquisition of properties, to ensure the most economical approach for the County use of federal grant funds.

Covering Employee Conflicts of Interest

1. The County adheres to both federal and state standards of conduct regarding conflicts of interest as related to the procurement of goods and services.
2. All respondents to requests for proposal, requests for qualifications and sealed bid solicitations must complete a conflict-of-interest document identifying a conflict with any County employee or elected official.
3. No County employee or elected official may engage in the selection, award and administration of a contract supported by a federal award if the employee has any real or apparent conflict of interest. Any County employee or elected official must identify any real or apparent conflict of interest with a potential vendor.

Maintaining Federal Award Financial Interests

1. County Treasurer is responsible for maintaining accurate, complete and current financial records for all federal funds received and expended.
2. County Treasurers office enters all transactions associated with federal grant funds in the County accounting system using GAAP.
3. County Treasurers office maintains a physical and electronic file of all supporting documentation associated with grant funds received and expended.

Managing Timely Vendor Payments

1. The County adheres to Texas Government Code regarding prompt payment of vendor invoices and strives to issue all payments within 30 days of receipt of invoice.
2. The County recognizes that federal grant funds have specific requirements that must be met in order to issue payment and that these processes may cause delays beyond the 30-day timeframe. Section 2251.002 of the Texas Prompt Payment Act includes federal grant funding as an exception to the 30-day requirement.
3. When the vendor issues an invoice to the County, the engineer of record must first review the invoice to ensure that that work on the invoice has been performed and is to the satisfaction of the County. This is done as quickly as possible without compromising the review process. Once approved, the engineer sends the signed invoice to the County and the Grant Administrator.

4. When the County receives a vendor invoice for construction services, the County Treasurer ensures that the Grant Administrator also receives the invoice. The Grant Administrator reviews the invoice and certifies that all required labor standards documents are on hand. If the contractor is out of compliance, the invoice is held for processing until all required documentation has been received. The County recognizes that this could cause delays, however, the County is required by contract to ensure that all labor compliance is complete. In order to minimize these situations, the County requires that the grant administrator notify contractors in a timely manner if the vendor is out of compliance. The County and the Grant Administrator discuss this process with the contractor at the preconstruction conference and explain the results of non-compliance.
5. Due to the amounts associated with most federal grant fund invoices, the County utilizes the advance payment method for processing invoices covered by federal grant funds. The County follows the procedure for Minimizing Time for Disbursement of Funds to ensure that the invoice is paid as quickly as possible.

Sabine County

Procedures for Federal Grant Procurement Policies

As required by federal grant contracts, the County has adopted the Procurement Policies defined in 2 CFR 200 Subpart D and all referenced Subparts and Appendices for managing federal grants.

The following procedure reflects how the County will ensure that all required federal contract provisions are included in vendor contracts executed.

Reviewing Vendor Contracts for Federal Contract Provisions

1. County Treasurer will maintain a current list of federal contract provisions as published in 2 *CFR 200 Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards*.
2. Grant Administrator will maintain a current list of federal contract provisions as published in 2 *CFR 200 Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards* and provide this list of provisions to the project engineer during the contract development process.
3. Grant Administrator will review the contract prepared by the project engineer to ensure that all required provisions are included. The Grant Administrator will provide this review checklist to the County Treasurer for review and approval.
4. The County Treasurer will conduct a final review of the provision's checklist prior to approval of the contract.

Sabine County

Procedures for Oversight of Labor Standards Officer Activities

As required by federal grant contracts, the County has adopted the Policies defined in 2 CFR 200 Subpart D and all referenced Subparts and Appendices for managing federal grants. This includes adherence to all Federal Labor Standards requirements. The following procedure reflects how the County implements these policies.

Overseeing Labor Standards Officer Activities

1. The County Judge and County Treasurer will be responsible for overseeing Labor Standards Officer activities.
2. LSO will provide a status of all activities on the monthly status call with the County. These calls are conducted for each open grant. Update will include identifying all current contractors and subcontractors and a report on their performance as related to labor standards requirements.
3. LSO will immediately contact the County Judge and County Treasurer when it is determined that a contractor and/or subcontractor is out of compliance. This notification must include the name of the contractor, along with the specific compliance issue, supporting documentation showing the LSO effort to maintain compliance and proposed solution to the issue at hand.
4. LSO will immediately contact the County Judge and County Treasurer for repeat issues with contractors and/or subcontractors. The County Judge and County Treasurer will require an in person meeting with the County, the LSO and the contractor to discuss repeat issues of non-compliance and determine a further course of action.