

# Procurement Policy



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# CALCASIEU PARISH POLICE JURY PROCUREMENT POLICY RECEIPT ACKNOWLEDGEMENT

This shall acknowledge my receipt of the 2024 edition of the Calcasieu Parish Police Jury's Procurement Policy which is inclusive of all prior modifications. I have read this manual and I am familiar with its contents. I will contact the Finance Division, or my supervisor if applicable, if at any time in the future I do not understand any portion of the manual. I agree to be responsible for inserting any revisions and/or updates in the manual and deletion of any obsolete material therein. I also recognize that the Police Jury may alter, supplement, delete or amend any portion of this manual at any time at the Police Jury's sole discretion.

With respect to procurement activities, no employee, officer, or agent of the Calcasieu Parish Police Jury shall participate in the selection or in the award or administration of a contract of the Parish if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if 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 above, has a financial or other interest or tangible personal benefit from the firm selected for the procurement award.

I further acknowledge that I am responsible for disclosing to my Department Supervisor and/or the Purchasing Department whether any potential conflict of interest exists prior to participating in the procurement activity. My Department Supervisor may report, as necessary, any potential conflict of interest to the Purchasing Department. I understand that I will be removed from participation in the procurement activity and/or contract administration where a real or apparent conflict of interest exists.

My signature attests to the fact that I have read this manual, I am familiar with its contents, and I will perform my duties in compliance with this policy including, but not limited to the "Conflict of Interest / Code of Conduct" Section discussed on page 4 of this policy and as stated above.

\_\_\_\_\_  
Procurement Employee's Signature

\_\_\_\_\_  
Procurement Employee's Printed Name

\_\_\_\_\_  
Date Signed

**THIS RECEIPT MUST BE RETURNED TO THE FINANCE DIVISION WITHIN THIRTY (30)  
CALENDAR DAYS FROM THE DATE YOU RECEIVE THE MANUAL**

# **CALCASIEU PARISH POLICE JURY PROCUREMENT POLICY**

These policies and procedures are intended to serve as guidelines for the procurement of materials, supplies, equipment, construction activity and professional or other services for the Calcasieu Parish Police Jury, hereinafter referred to as the Parish. These guidelines are intended to address current local, state and federal procurement guidelines while obtaining the lowest possible cost consistent with the quality needed for each specific procurement activity. From time to time, it may be necessary to update the enclosed policy and may be done so either by formal amendment to this policy or interim policy operational changes to be formalized at a later date.

## **I. CONFLICT OF INTEREST / CODE OF CONDUCT**

No employee, officer, or agent of the Calcasieu Parish Police Jury shall participate in the selection or in the award or administration of a contract of the Parish if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the above, has a financial or other interest in or tangible personal benefit from a firm considered or selected for award.

No officer, employee or agent of the Calcasieu Parish Police Jury shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the gift is an unsolicited item of nominal intrinsic value (promotional items), the unsolicited item complies with the food and drink exception of Louisiana Revised Statute 42:1115 or the unsolicited item complies with any other exception provided by Louisiana law or the Louisiana Board of Ethics.

Any alleged violations of these standards of conduct shall be referred to the Parish staff and/or legal counsel for further review. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal. Where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

## **II. PROCUREMENT PROCEDURES**

The director or supervisor of each department of the Parish is responsible for proper procurement of materials, supplies, equipment, construction activity and professional or other services and should review all proposed procurement actions for actual need in order to avoid the purchase of unnecessary or duplicative items. Such reviews should consider initial project cost estimates, budget funding availability and possible consolidation or breaking out to obtain a more economical purchase without violating any “bid splitting” prohibitions. The department should also determine the source of funding for the procurement activity (i.e. local, state or federal funds). Coordination with department grant managers when procurement involves grant activity is required.

While some type of initial cost estimate, even if informal, should be obtained on all procurements, Section III (B) (2) requires a documented cost or price analysis on all procurement actions involving federal funds that exceed the federal Simplified Acquisition Threshold. This detailed cost or price analysis must be performed by the department when federal grant funds, in excess of the federal Simplified Acquisition Threshold, are utilized for the procurement purchase and should also be considered with procurements using other state grant funds, if required by the grantor agency. The Parish should ensure that all procurement activities should strive to not spend funds, regardless of source, on the acquisition of unnecessary or duplicative items. The Code of Federal Regulations specifically requires that federal funds should not be spent on the acquisition of unnecessary or duplicative items.

Once cost and budget issues are addressed, the director or supervisor of each department should then determine which procurement approach is required by applicable local, state or federal laws and regulations in addition to which approach would be the most beneficial and economical. Section III (A) identifies the local and state procurement methods while Section III (B) (1) identifies the federal procurement methods available. Each department is responsible for identifying which procurement method would be required. Federal procurement requirements state that, if federal grant funds are involved, then the federal procurement methods are required unless the local or state procurement methods are more restrictive. **Please note that the most restrictive method should be utilized when federal grant funds are involved.** For example, local and state requirements necessitate that commodities must be formally bid with the proper advertisement at \$60,000 or more. The federal procurement methods provide micro and small purchases methods for purchases under \$250,000 which consist of obtaining a reasonable cost and/or an adequate number of quotes. The federal procurement method would not be sufficient if federal grant funds are involved since local and state methods have more restrictive requirements at lower cost thresholds for commodities. As previously stated, if grant funds are involved, whether the funding source is local, state or federal, communication with the department grant manager, the grantor and/or referral to grant document information is recommended to ensure that all procurement compliance issues are addressed. The department should also ensure that communication with the Finance Division is always maintained in procurement activity since, for the majority of purchases, the Finance Division will issue separate purchase orders.

All procurement where the Parish is a direct party should be carried out in a manner that provides maximum free and open competition. Specific procurement procedures will not restrict or eliminate competition. The Parish should not place unreasonable requirements, such as unnecessary experience or bonding requirements, on firms in order for them to qualify to do business. Nor will the Parish encourage or participate in noncompetitive practices among firms. The Parish is also concerned about organizational conflicts which might impact the procurement process by limiting competition or affecting any negotiation process.

After the procurement approach is determined, all actual solicitations of offers should incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured in accordance with local policy or state or federal law, whichever is applicable to the transaction. In competitive procurements, these descriptions should not contain features which unduly limit competition. The description may include a statement of the qualitative nature of the material, product, or service and the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications, which limit competition, should be avoided whenever possible. A "brand name or equal" description may be used to define the performance or other prominent requirements of procurement and the specifications must state clearly that it is used only to denote the quality standard of product desired and that bidders are not restricted to the specific brand. If a particular brand name is used in the specifications, the model or catalog number will also be included. The specific features of the named brand which must be met by offerors should be clearly stated.

All solicitations of offers should clearly set forth all requirements of the product or service requested, items required at the time of submission, and other factors to be used in evaluating or awarding bids, proposals, or statements of qualifications. Contracts should be awarded to the responsible and/or responsive contractors/firms with the low quote/bid when qualifications and/or scoring criteria are not required. As required by state law, if contract awards are made pursuant to telephone or other oral offers, then a written confirmation of the accepted offer shall be obtained by the department and maintained in the department files. If the low quote/bid is not accepted then proper justification will be denoted in the procurement file. If qualifications and/or scoring criteria are utilized then the quote/proposal that demonstrates the vendor's potential ability to perform successfully under the terms and conditions of the proposed procurement will be selected based on the scoring criteria stated in the procurement documents. Some of the qualifications and/or scoring criteria may be, but are not limited to, such factors as the contractor's/firm's capacity, integrity, compliance with public policy, record of past performance, and financial and technical resources.

Vendor lists are maintained by the Finance Division for items that are formally procured. The departments also have vendor lists for smaller threshold purchases. Vendors interested in doing business with the Parish can reach out to the Finance Division to be added to solicitation lists.

Whenever possible, and certainly when federal funds are involved, the Parish will take affirmative steps to assure that small and minority business firms, women's business enterprises, veteran owned small business, labor surplus area firms, or other similarly recognized entities are placed on solicitations lists and are solicited whenever they are potential qualified sources. In certain cases, the Parish may work to achieve affirmative action. The Parish should also consider the feasibility of dividing total requirements into smaller tasks or quantities, without violating other state bid laws, to permit maximum participation by the aforementioned entities. Where permitted by regulations, delivery schedules will be developed which will include participation by such businesses. Where appropriate, the Parish will utilize the services and assistance of the Small Business Administration or similar organizations. The following sources will provide a statewide dissemination of the solicitations of offers and will be utilized whenever possible, and certainly when federal funds are involved: (1) Louisiana Economic Development ([www.opportunitylouisiana.com/smallbusiness](http://www.opportunitylouisiana.com/smallbusiness)), (2) Louisiana Municipal Association ([www.lma.org](http://www.lma.org)), (3) Department of Transportation and Development ([www8.dotd.louisiana.gov/ucp/](http://www8.dotd.louisiana.gov/ucp/)), (4) Small Business Administration (<https://www.sba.gov/district/louisiana>), (5) Procurement Technical Assistance Center Louisiana (<https://ptac.louisiana.edu/services/economic-development-partners>), (6) Women's Business Enterprise Council South ([www.wbecsouth.org](http://www.wbecsouth.org)), (7) Louisiana Legislative Black Caucus ([www.llbc.louisiana.gov](http://www.llbc.louisiana.gov)), (8) Veterans Affairs (<https://www.vetaffairs.la.gov/>), (9) American Defense Services Inc. (<http://www.fivestardeffense.com/>), (10) Asian Chamber of Commerce Louisiana (<https://asianchamberlouisi.wixsite.com/accl>), (11) Hispanic Chamber of Commerce Louisiana (<https://hispanicchamberla.com/>), (12) Southern Region Minority Supplier Development Council (<https://www.srmsdc.org/>); (13) Strategic Action Council (<https://strategicactioncouncil.org/>), (14) Vietnamese Initiatives in Economic Training (<https://www.vietno.org/>), (15) Urban League of Louisiana (<https://urbanleaguela.org/>), (16) Women's Business and Enterprise Council (<https://www.wbenc.org/>), (17) Louisiana Chamber of Commerce Foundation (<https://www.lachamberfoundation.org/>), and (18) National Association of Women Business Owners (<https://nawbo.org/>).

The correspondence with the above entities can be in an email advertisement of the solicitation of offers. The Finance Division will provide the correspondence with these entities for all applicable formal procurements and the department will be responsible for providing the correspondence on all applicable informal procurement solicitations (where applicable). Bidders/Proposers are to take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms and/or suppliers are used when possible. The Parish should assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority business firms, women's business enterprises, veteran owned small business, and labor surplus area firms as well as including the other affirmative steps mentioned above.

The department procuring the materials, supplies, equipment, construction activity, and/or service will prepare a requisition, if applicable, for smaller threshold purchases. The director or supervisor of the department should verify and approve the purchase is necessary and the cost is reasonable prior to the issuance of the requisition to the vendor for the purchase. For materials, supplies, and/or equipment that cost in excess of \$15,000 and/or construction activity that cost in excess of \$5,000, the department will need to request a Purchase Order from the Finance Division. A Purchase Order may also be requested for services that cost in excess of \$25,000. The individual requesting the Purchase Order is to have approval from the director or supervisor of the department prior to requesting the Purchase Order from the Finance Division. The Finance Division will verify the proper procurement activity has been conducted along with verifying all the supporting documentation for the purchase has been provided prior to approving and issuing the Purchase Order. Purchase orders are also required for: (1) any commodity item included in an annual, semi-annual or other time period standard bid, (2) state contract items, unless an exception has been made by the Finance Division (ex: coffee), (3) some fixed asset purchases, or (4) piggyback contract items. If the cost of these commodity purchases are under \$15,000, a hardcopy Purchase Order may not be printed and the department will be given a Purchase Order number only.

The department procuring the materials, supplies, equipment, construction activity, and/or service is responsible for knowing the different methods of procurement and understanding when they are applicable. The Finance Division is available to assist the departments with their procurement needs and to help ensure compliance with the applicable method. The Finance Division oversees all formal procurement solicitations to ensure compliance with the Public Bid Law. In addition, the Finance Division monitors procurement activities at all levels to ensure proper procurement is being done and that the Parish is in compliance with Public Bid Law and the Parish's Procurement Policy.

The Finance Division maintains all documentation pertaining to formal bids and solicitations except for capital projects which are maintained by Administration and road, bridge, and drainage projects which are maintained by the Division of Public Works and Engineering. The Finance Division also maintains the quotes received utilizing the Parish's Request for Quote form and the documentation provided for the issuance of any Purchase Orders. The departments are to maintain all documentation related to smaller threshold purchases that do not require a Purchase Order.

[The remainder of this page is intentionally left blank.]

TABLE 1 – COMPARATIVE ANALYSIS OF PROCUREMENT METHODS (Excluding State Contract or Piggyback Contract Options)

Type of Local or State Procurement	Request for Quote (i.e. “Quote Request”)	Invitation to Bid (i.e. “Bid” or “Sealed Bid”)	Request for Proposal (i.e. “RFP”)	Request for Qualifications (i.e. “RFQ Formal”)	Request for Qualifications Quote (i.e. “RFQQ Informal”)
<b>How is procurement defined?</b>	An informal offer of goods or services received by the Parish from a vendor in response to a “Quote Request”	A formal offer of goods or services received by the Parish from a vendor in response to an Invitation to Bid (BID)	A formal offer of goods or services received by the Parish from a vendor in response to a Request for Proposal (RFP)  The request will establish grading criteria with price included as a scoring criteria	A formal vendor offer of services received by the Parish in response to a Request for Qualifications (RFQ)  The request will establish grading criteria with either: (1) price as a factor (required for federal purposes on every non-A/E purchase), (2) price not as a factor but to be negotiated only after the qualification and selection portion is completed (A/E) or (3) without price as a factor (prices are set by the Parish in the procurement documents).	An informal offer for services received by the Parish from a vendor in response to a “Qualifications Quote Request”  The request will establish grading criteria with price or without a price, where appropriate, included as a scoring criteria
<b>Who receives award?</b>	Low responsive and responsible bidder	Low responsive and responsible bidder	Proposer with highest score for pre-established criteria	Proposer with highest score for pre-established criteria	Proposer with highest score for pre-established criteria
<b>When is method applicable?</b>	<u>Public Works and Services</u> – \$25,000 or greater but less than \$250,000  <u>Commodities</u> - \$15,000 or greater but less than \$60,000 (unless \$60,000 threshold has been met on a Parish-wide basis)	<u>Public Works</u> – \$250,000 or greater  <u>Commodities (Including Installation)</u> - \$60,000 or greater	<u>Services</u> – \$125,000 or greater  <u>Software, Telecommunications and Data Processing Equipment</u> - \$60,000 or greater	<u>Services</u> – \$125,000 or greater  (Could be used for federal procurement < \$125,000 in lieu of the Request for Qualifications Quote)	<u>Services</u> – \$25,000 or greater but less than \$125,000 (May be used over \$125,000 if approved by Administration) (See Note on Request for Qualifications for federal procurement)
<b>What are the advertising requirements?</b>	None	<u>Public Works Activity</u> – 1 time a week for 3 weeks beginning 25 days before opening  <u>Commodities</u> – 2 times beginning 15 days before opening	<u>Services</u> – No legal requirement but may advertise at least 1 time 15 days before opening based on RFP complexity <u>Software, Telecommunications and Data Processing Equipment</u> 1 time 30 days before opening	<u>Services</u> – No legal requirement but may advertise at least 1 time 15 days before opening based on RFQ complexity	None
<b>What are the advantages?</b>	Advantage of speed and efficiency – Target responsive bidders	Allows for the procurement of large quantities of uniform items purchased on a recurring basis (i.e. aggregate material, auto/equipment parts, fuel, etc.)	Allows for the procurement of large volumes or large value of items or services where non-price criteria can be utilized	Allows for the procurement of various types of services where scoring criteria, including qualifications, can be considered	Advantage of speed and efficiency and ability to award to bidder with best potential to provide quality service
<b>What are the disadvantages?</b>	Inability to discuss and negotiate with the bidder – Non-price factors cannot be considered	Inability to discuss and negotiate with the bidder – Non-price factors cannot be considered	Formal, time consuming process	Formal, time consuming process	None
<b>What is the equivalent federal term?</b>	Small Purchases Procedures >\$10,000 < \$250,000	Sealed Bid Method	Competitive Proposals Method	Competitive Proposals Method	Not addressed in Federal Procurement



### III. METHODS OF PROCUREMENT

All procurements fall into one of the three types of purchases: (1) Commodities (materials and supplies), (2) services, or (3) public works projects. Each type of purchase has its own thresholds and method of procurement needed. Table 1 on page 8 contains a comparative analysis of the different procurement methods available under state law and federal law including a hybrid method that the Parish has created for primarily local uses which is identified as a “Request for Qualifications Quote.” In addition to these methods, the use of state contracts or piggyback contracts (Section III - A.6.) may be utilized. Each department, in coordination with the Finance Division when needed, should determine the applicable procurement method depending on the item being purchased, the estimated cost of the item and the source of funding for the expenditure. Direct procurement by the Parish should be made by using one (1) of the following applicable methods.

#### (A) Non-Federal Purchases Including Purchases Funded with Local or State Sources

##### (1) Materials and Supplies (Commodities or Telecommunication Equipment and Software\*), Including Associated Installation Costs

###### (a) \$0 - \$14,999 ++

- No bid or quote requirement. Purchase orders, or purchase order numbers, are required for: (1) any commodity item included in an annual, semi-annual or other time period standard bid, (2) state contract items, unless an exception has been made by the Finance Division, (3) some fixed asset purchases, or (4) piggyback contract items. Departmental requisitions will serve as written confirmation of accepted offer for items where purchase orders are not required.
- Department is responsible for ensuring that a reasonable cost is obtained.

###### (b) \$15,000 - \$59,999 ++

- Written quotes, with vendor signatures, using the Parish’s “Request for Quote” documentation and delivery requirements or use state contract option – Oral, telephone, facsimile, email or other printable electronic form of quotes may be used after approval from the Finance Division however, if contract awards are made pursuant to telephone or other oral offers, then a written confirmation of the accepted offer shall be obtained by the Department and maintained in the Department files – A minimum of three (3) quotes must be received per state law for purchases over \$30,000; however, documentation should be provided showing the quote was sent to at least three (3) vendors and identifying any other circumstances justifying the use of less than three (3) quotes when less than three (3) quotes are received.
- Purchase order required which will serve as a written confirmation of accepted offer as required by state law.

###### (c) \$60,000 or above

- Police Jury approval to advertise and award is required for formal bids. Police Jury approval may also be required for state contract or piggyback contract options.
- Formal advertisement and electronic bidding with award to lowest responsive and responsible bidder or use state contract or piggyback contract options.
- Executed contract and/or Purchase order (which will serve as contract with successful bidder) will be required unless an exception is granted by the Finance Division.

- A five percent (5%) bid bond may be required on certain fixed price commodity purchases such as vehicles and heavy equipment even though state law only addresses bid bonds for public works activities.
- For purchases of commodities of \$100,000 or more, consideration should be given to requiring payment and performance bonds if significant installation costs are applicable.
- Consideration should be given to incorporating a requirement that all commodity solicitations for bid, as well as any resulting contract, state that the vendor represents that the prices charged on bid items do not exceed existing selling prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions.
- Software, Telecommunications and Data Processing Equipment are procured using a “Request for Proposal” (RFP)\* as allowed in Louisiana Revised Statute 38:2237. Formal advertisement and electronic bidding with award to the highest rating proposal based on stated evaluation criteria listed in the RFP document.

++ If on a Parish-wide basis, the annual purchase costs for a particular commodity exceeds the \$60,000 formal bidding threshold then the Parish must procure the items through formal bidding procedures or use state contract or piggyback contract options. This formal bid process is referred to above as a standard bid and includes purchases such as bulk oil, road base, automobile and equipment parts, food pantry items, etc. and also applies to the purchase of vehicles and equipment.

**(2) Services, Inclusive of Repairs (not classified as Public Works Activities), Consulting, Professional or Other**

When non-federal funds are being utilized to fund a specific procurement, it is the intent of this policy to attempt to obtain competitive prices on service related activity whenever it is feasible to do so. However, there are certain services that are of such a specialized field, sensitive in nature, emergency related, covered by other eligibility program requirements or for another viable reason excuses Procurement from following a competitive pricing method. Exhibit B presents a list of services (not all-inclusive) that the Parish currently considers exempt from competitive pricing. This list will be updated as needed to properly address future services that qualify for this designation. Validations in writing are required for exempted services not listed in Exhibit B and may require approval from Administration. Since services are not governed by state bid law, Administration reserves the right to approve a less restrictive procurement process than stated below when local funds are being utilized and appropriate justification is provided. Procedures for other service related procurements that are not exempt will comply with the following guidelines.

**(a) \$0 - \$24,999**

- No bid, quote, or purchase order requirement.
- Department is responsible for ensuring that a reasonable cost is obtained.
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000. Department is responsible for ensuring all applicable licensing requirements are met.
- Department is responsible for ensuring that all applicable insurance requirements are met.

**(b) \$25,000 - \$124,999\*\*\***

- Unless exempt as stated above, written quotes (preferably three (3) received, however a minimum of three (3) quotes should be requested), with vendor signatures, using the Parish’s “Request for Quote” (RFQ), or “Request for Qualifications Quote” (RFQQ), documentation and delivery requirements – If less than three (3) quotes are received, consideration should be given to how many requests were distributed to the vendors and any other circumstances justifying the use of less than three (3) quotes.
- Approval may be required from Parish Administrator and/or Finance Division.
- Purchase order and/or contract required.
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000 (in accordance with referenced state statute above and other state contractor license requirements, quotes for hazardous material and mechanical or electrical activities or any other contractor service (cumulatively exceeding \$50,000) shall identify the contractor’s license number on the “Request for Quote” form). Department is responsible for ensuring all applicable licensing requirements are met.
- Department is responsible for ensuring that all applicable insurance requirements are met.

**(c) \$125,000 and above**

- Unless exempt, or otherwise non-feasible, as stated above, competitive procurement is required. Police Jury approval to advertise and award is required.
- Formal advertisement and electronic bidding with award to the highest rating proposal based on stated evaluation criteria listed in the “Request for Proposal” (RFP) or “Request for Qualification” (RFQ formal) document.
- Approval required from Parish Administrator and/or Finance Division.
- Purchase order and/or contract required.
- Based on the circumstances of the procurement, consideration as to requiring bid bonds and/or payment and performance bonds should be given.
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000 (in accordance with referenced state statute above and other state contractor license requirements, quotes, proposals, or bids for hazardous material and mechanical or electrical activities or any other contractor service (cumulatively exceeding \$50,000) shall be sealed and identify the contractor’s license number on the outside of the envelope).

\*\*\* Architect and Engineer Services - Please note that Louisiana Revised Statute 38:2318.1, upheld by Attorney General Opinion 07-0185, states that for professional design services performed by an architect, engineer or landscape architect *“neither the state nor any of its political subdivisions or agencies may select providers of design services wherein price or price-related information is a factor in the selection.”* A pre-determined fee schedule, such as the “state fee curve” approved by the Office of Facility Planning and Control or some other industry standard can be utilized, but the original procurement may not contain a price element as a basis for selection unless state law is modified or further legal clarification is received. The method of procurement utilized for these services can be either the “Request for Qualifications Quote” (RFQQ) or Request for Qualification” (RFQ formal) both without price used as an evaluation criteria. Coordination with federal agencies is required if architect or engineering services will be procured using the Federal Small Purchases Method for services greater than \$10,000 but under \$250,000 since that method may conflict with the above state law.

**(3) Public Works Activities (defined as the Erection, Construction, Alteration, Improvement or Repairs of any Public Facility or Immovable Property owned, used, or leased by a public entity)**

**(a) \$0 - \$24,999**

- No bid or quote requirement.
- Department is responsible for ensuring that a reasonable cost is obtained.
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000. Department is responsible for ensuring all applicable licensing requirements are met.
- Department is responsible for ensuring that all applicable insurance requirements are met.
- Purchase order required on projects over \$5,000 which will serve as contractual agreement with vendor.

**(b) \$25,000 – \$49,999**

- Written quotes (preferably three (3) received, however a minimum of three (3) quotes should be requested), with vendor signatures, using the Parish's Request for Quote documentation and delivery requirements - Oral, telephone, facsimile, email or other printable electronic form of quotes may be used on limited occasions after approval from the Finance Division however, if contract awards are made pursuant to telephone or other oral offers, then a written confirmation of the accepted offer shall be obtained by the Department and maintained in the Department files - If less than three (3) quotes are received, consideration should be given to how many requests were distributed to the vendors and any other circumstances justifying the use of less than three (3) quotes.
- Purchase order and separate contract required with contract to be filed at courthouse.
- Any change orders are also to be filed at the courthouse.
- Payment and performance bonds are required for 100% of the contract total.
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000. Department is responsible for ensuring all applicable licensing requirements are met.
- Department is responsible for ensuring that all applicable insurance requirements are met.
- Written confirmation from vendor all subcontractors have been paid and no lien is on the project prior to final payment being issued.

**(c) \$50,000 – \$249,999**

- Written quotes (preferably three (3) received, however a minimum of three (3) quotes should be requested), with vendor signatures, using the Parish's Request for Quote documentation and delivery requirements - Oral, telephone, facsimile, email or other printable electronic form of quotes may be used on limited occasions after approval from the Finance Division however, if contract awards are made pursuant to telephone or other oral offers, then a written confirmation of the accepted offer shall be obtained by the Department and maintained in the Department files - If less than three (3) quotes are received, consideration should be given to how many requests were distributed to the vendors and any other circumstances justifying the use of less than three (3) quotes.

- Purchase order and separate contract required with contract to be filed at courthouse.
- Any change orders are also to be filed at the courthouse.
- Payment and performance bonds are required for 100% of the contract total.
- State licensed contractor is required by LA R.S. 37:2150.1 and 2163 (quotes shall identify the contractor's license number on the "Request for Quote" form).
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000 (in accordance with referenced state statute above and other state contractor license requirements, quotes, proposals, or bids for hazardous material and mechanical or electrical activities or any other contractor service (cumulatively exceeding \$50,000) shall identify the contractor's license number on the "Request for Quote" form).
- Department is responsible for ensuring all applicable licensing requirements are met.
- Department is responsible for ensuring that all applicable insurance requirements are met.
- Substantial completion documentation must be filed at courthouse within 30 days of substantial completion approval.
- 45 day lien period must be satisfied before final payment is issued.
- Advertising of substantial completion is not required.

**(d) \$250,000 and above**

- Police Jury approval to advertise and award is required for formal bids.
- Formal advertisement and electronic bidding with award to lowest responsible bidder.
- Purchase order and separate contract required with contract to be filed at courthouse. Any change orders are also to be filed at the courthouse.
- Payment and performance bonds are required for 100% of the contract total.
- Louisiana Uniform Bid Form must be used.
- State licensed contractor is required by LA R.S. 37:2150.1 and 2163 (bids shall be sealed and identify the contractor's license number on the outside of the envelope).
- Louisiana Revised Statute 37:2150.1 requires a state licensed contractor when handling any hazardous material (i.e. asbestos, fuel spills, etc.) in excess of \$1, any mold remediation in excess of \$7,500, or involving any mechanical, plumbing, or electrical activities (i.e. a/c, plumbing, wiring, etc.) in excess of \$10,000.
- Substantial completion documentation must be filed at courthouse within 30 days of substantial completion approval.
- All progressive payments are to be made timely in accordance with Louisiana Revised Statute 38:2191, which requires payments to be made within forty-five (45) days of receipt.
- 45 day lien period must be satisfied before final payment is issued.
- Advertising of substantial completion is required.
- A five percent (5%) bid bond is required.
- For projects estimated to cost more than \$5,000,000, the "construction management at risk" (CMAR) delivery method may be used with approval required from Parish Administrator and/or Finance Division.

#### **(4) Sole Source Purchases**

Louisiana Revised Statute 39:1597 (which was adopted by the Parish on December 19, 2002) addresses sole source procurement and covers any purchase where there is “only one source for the required supply, service, or major repair item.” Please note that this definition differs from the sole source definition for federal procurement which is discussed later. The following items should be addressed on all sole source procurements:

- Completion of a justification form which can be obtained from the Finance Division
- Submission of a manufacturer’s published price list or notarized price list
- Obtain a signed letterhead quotation and declaration from vendor
- Consultation with the Finance Division for all sole source procurements

#### **(5) Emergency Purchases**

Louisiana Revised Statute 38:2211(5)(a) defines an emergency as “an unforeseen mischance bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury or as the result of an order from any judicial body to take any immediate action which requires construction or repairs absent compliance with the formalities of this Part, where the mischance or court order will not admit of the delay incident to advertising as provided in this Part.”

Louisiana Revised Statute 38:2211(5)(b) defines an extreme public emergency as a “catastrophic event which causes the loss of ability to obtain a quorum of the members necessary to certify the emergency prior to making the expenditure to acquire materials or supplies or to make repairs necessary for the protection of life, property or continued function of the public entity.”

Each of these certifications require that the Parish certify the emergency and publicize the notice of such emergency within ten (10) days of the emergency, or as soon as practical in the cases of extreme emergencies. Please consult with the Finance Division on the specific procedures to be followed for emergency purchases.

A local emergency declaration made by the Parish President can suspend all local policies and procedures for procurement for the duration of the disaster. Only an emergency proclamation issued by the Governor of Louisiana can suspend the rules and regulations of the Louisiana Public Bid Law for procurement of goods and services needed to respond during a disaster.

#### **(6) State Contract and Piggyback Purchases**

The Parish may utilize any state contract awarded by the Louisiana Office of State Procurement without having to perform additional procurement procedures as allowed by Louisiana Revised Statute 38:2212.1 (F). In addition, the Parish may piggyback off other awarded contracts from other Louisiana governmental entities in accordance with either Louisiana Revised Statute 38:321.1 or 33:1324 (Local Services Law), as long as the other governmental entity followed proper procurement procedures and all relevant steps are followed. The departments should contact the Finance Division for additional information and compliance requirements for use of state contracts and piggyback contracts.

## **(B) Purchases Procured under a Federal Grant or Other Federal Funding Sources**

NOTE: WHEN LOCAL OR STATE PROCUREMENT GUIDELINES ARE MORE RESTRICTIVE THAN THE FEDERAL PROCUREMENT GUIDELINES LISTED BELOW, THE LOCAL OR STATE GUIDELINES SHOULD BE FOLLOWED. MOST FEDERAL GRANTS WILL INCLUDE A STATEMENT THAT SUB RECIPIENTS SHOULD FOLLOW THEIR OWN PROCUREMENT PROCEDURES WHICH REFLECT APPLICABLE STATE AND LOCAL LAWS AND REGULATIONS PROVIDED THAT THE PROCUREMENT CONFORMS TO APPLICABLE FEDERAL LAW AND STANDARDS. A PRIME EXAMPLE WOULD BE THE PURCHASE OF MATERIALS AND SUPPLIES (COMMODITIES). STATE LAW IS MORE RESTRICTIVE ONCE THE PURCHASE AMOUNT IS \$60,000.

### **(1) Federal Procurement Methods**

Any procurement utilizing federal funds should comply with the Code of Federal Regulations (CFR) 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

The following are general guidelines to be followed when purchases are procured under a federal grant program or other federal funding sources. **Each of the federal programs may have specific procedures that must be followed. Each Parish departmental grant manager should communicate directly with their respective grantor agency as well as review the specific Code of Federal Regulations referred to previously. Each federal grantor agency will have various program requirements identified in the Code of Federal Regulations that are applicable to that federal agency's program therefore the Parish departmental grant manager should ensure that the Parish is in compliance with all of that agency's program requirements.** An initial project cost estimate is to be completed for each federal procurement activity and is to be prepared by the Department requesting the procurement.

#### **(a) Micro Purchases Procedures (\$0 - \$9,999)**

No specific procurement requirements are applicable to this level of procurement but the department should ensure cost reasonableness and, when practical, the department should distribute the purchases among qualified suppliers. (Note: The \$10,000 federal limit may be adjusted periodically by the U.S. Government.)

#### **(b) Small Purchase Procedures (\$10,000 - \$249,999)**

Small purchase procedures are relatively simple, informal procurement procedures that can be used when purchasing services, materials, supplies, equipment, and/or other property that will cost in the aggregate an amount above \$10,000 but not more than \$250,000 except where further limited by state law or federal grant program requirements. Each responsible department must obtain an adequate number of quotes. Preferably, a minimum of three (3) oral or written price or rate quotations from qualified sources should be received. However, if three (3) or more quotations were requested yet only two (2) responses were received then the procurement may proceed without further procedures. Department Grant Managers should communicate with the grantor agency since some grantors may take the position that three (3) responses must be received to avoid a nonresponsive designation. Documentation on all quotations received (whether oral or written) should be made a part of the department's procurement file.

The Parish requests that the “Request for Quote”, or the “Request for Qualifications Quote” (RFQQ for services), documentation and delivery requirements be followed by the department. From a Parish standpoint, oral quotes may be used on limited occasions after approval from the Finance Division. Under federal procurement, if only one (1) response is received then the procurement is considered to be a noncompetitive proposal or sole source procurement. Please refer to Section III(B)(1)(e). Grant Managers should be aware that grants awarded prior to any change in the micro or small purchase methods amounts might apply the prior purchasing limit criteria or another criteria if separately stated in federal law.

**(c) Sealed Bids (\$250,000 or more)**

Under this procedure, bids are publicly advertised or solicited in accordance with the Parish procurement policy and the State Public Bid Law. A firm fixed price contract (either lump sum or unit price) should be awarded to the responsive and responsible bidder whose bid is lowest in price and that conforms to all the material terms and conditions of the advertisement for bids. 2 CFR 200.325 requires contracts for construction or improvements exceeding the Simplified Acquisition Threshold to include bid guarantees (bid bonds), performance bonds and payment bonds.

The sealed bid method is the preferred method for procuring construction contracts. However, competitive sealed bids can be used only when the following criteria are met: (1) there are complete, adequate, and realistic specifications or purchase descriptions, (2) there are two or more responsible bidders who are willing and able to compete effectively, and (3) the procurement can be made utilizing a firm fixed price contract and selection of the successful bidder can appropriately be made on the basis of price (assuming that bidder is fully responsive).

When formal advertising is used the following conditions should be met:

- The advertisement for bids should be publicly advertised in accordance with state law.
- The advertisement for bids, including the specifications and pertinent attachments, should clearly define the items or services needed for the bidders to properly respond to the advertisement.
- All bids should be opened publicly at the time and place specified in the advertisement for bids.
- A firm fixed-price contract award should be made by written notice to the lowest responsive and responsible bidder whose bid conforms to the advertisement for bids. Where specified in the bid documents, factors such as discounts, transportation costs, and life cycle costs should be considered in determining which bid is lowest. Payment discounts should only be used to determine low bid when prior experience indicates that such discounts are generally taken.
- Notwithstanding the above, any or all bids may be rejected when there are sound, documented business reasons in the best interest of the Parish and/or federal grant program and reasons for rejection are in accordance with state law.

**(d) Competitive Proposals (Requests for Proposals/Qualification Statements)**

The technique of competitive proposals is normally conducted with more than one (1) source submitting an offer. This method may be used when the sealed bid and small purchase methods are not appropriate. Adherence to individual grant program requirements is a necessity therefore the Parish departmental grant manager should review those requirements. Some programs (i.e. Community Development Block Grant - CDBG) require that architectural and engineering services be procured via requests for qualification statements while administrative consulting services must be procured via requests for proposals. CDBG program requirements also provide that other professional services may be procured by requests for proposals. However, other federal programs may allow administrative grant consulting services to be procured via requests for qualification statements where price is a factor.



The following procedures will be used for competitive proposals:

- Requests for proposals or qualification statements must be publicized or solicited in accordance with the rules of the Parish and/or federal grant program (or state grant program, if applicable) funding the purchase. All responsive submittals will be honored and entered into the competition.
- Requests for proposals or qualification statements must be solicited from an adequate number of qualified sources.
- The request for proposals or qualification statements shall contain a detailed list of tasks in the proposed scope of work that is expected to be accomplished.
- The request for proposals or qualification statements should identify all significant evaluation factors or selection criteria, including the corresponding point system that will be used to rate the proposals/qualification statements. This shall also include a written statement that identifies the basis upon which the section was made.
- The selecting official (or committee, if one is designated) should review all responsive proposals and statements received and make a technical evaluation of each.
- Contract award will be made to the responsible offeror whose submission is deemed most appropriate to the Parish with consideration for price (except for architectural/engineering (A/E) professional services), qualifications, and other factors set by the local governing body. Unsuccessful offerors shall be notified in writing within ten (10) working days of contract award. Documentation of notification shall be maintained in the contract selection file for the individual project.

Architectural and engineering services are procured via requests for qualification statements or requests for proposal responses from an adequate number preferably three (3) of qualified sources. (Please note that some grant program requirements – i.e. CDBG - may specifically state that three (3) proposals should be solicited in lieu of an adequate number of qualified sources.) This qualifications-based procurement of architectural/engineering (A/E) professional services includes the evaluation of competitors' qualifications with the most qualified competitor being selected without reference to price. The Parish would then enter into contract negotiations with the most qualified competitor which will include negotiation of price to ensure cost reasonableness. At the conclusion of successful negotiation, the competitor should be invited to enter into a contract.

In addition to architectural and engineering services, administrative consulting services or other professional services may be procured via requests for proposals/qualifications, if allowed by federal program requirements. However, those requests must include an evaluation of price factors.

#### **(e) Noncompetitive Proposals or Sole Source Procurement**

Noncompetitive proposals (negotiations) should be used when: (1) the small purchase, competitive sealed bids, or competitive proposal (negotiations) procedures are not feasible, (2) the item or service being procured is available only from a single source, (3) the noncompetitive proposals (negotiations) will involve the solicitation of a proposal from only one source or (4) if after solicitations under one of the federal procurement methods above, the procurement resulted in only one response, proposal, or qualification statement. Coordination with the grantor of the federal program should be made when noncompetitive negotiation is used (CDBG requires written authorization).

As a recap, in order to qualify for this type of procurement, one (1) of the following circumstances must apply:

- The item or service is available only from a single source.
- Procurement is determined to not be feasible under the other referenced methods of procurement or it is determined that a public urgency or emergency exists and the urgency will not permit the delay beyond the time needed to employ one of the other methods of procurement.
- After solicitation from a number of sources, competition is determined to be inadequate (i.e. received only one response).

## **(2) Cost or Price Analysis**

Federal procurement guidelines require that grantees and subrecipients perform a cost or price analysis in conjunction with every procurement action including any contract modification that exceeds the Simplified Acquisition Threshold currently set at \$250,000. The purpose of this analysis is to ensure that the resulting price paid is reasonable. The method and degree of analysis is dependent on the facts surrounding the particular procurement, as a starting point, an independent cost estimate is to be prepared prior to receiving bids or proposals for all purchases above the Micro Purchase Threshold. Cost analysis is the review and evaluation of each element of cost, which aggregate to the overall price, to determine reasonableness. This is traditionally used in conjunction with sole source contracts or construction contracts that have labor, material and profit components, all of which should be considered for reasonableness. Price analysis is the preferred Parish method of analysis due to its efficiency, fairness and compliance with government and commercial practices. Price Analysis includes the comparison of price quotations and is used in conjunction with purchases of materials, supplies or other fixed price purchases. For federal grant purposes, costs or prices based on estimated costs should be allowed only to the extent that the costs incurred or the cost estimates included in negotiated prices are consistent with federal cost principles.

For other nonfederal purchases, each department is required to prepare a cost or price estimate prior to procurement whenever feasible. For construction contracts, a probable cost opinion is provided by the architect or engineer and can be used for any procurement purposes. For commodities, a price estimate from the internet, a catalog, a vendor, etc. may be utilized. In addition to the cost analysis for purchases in excess of the Simplified Acquisition Threshold, a formal cost or price analysis is required for federal grant purposes after procurement in all sole source procurements, with all contract modifications (i.e. change orders) and in any case where competition was lacking after a formal procurement process was undertaken (i.e. only one bid was received). As with the pre-procurement cost or price estimate, each department is responsible for completing this analysis.

## **(3) Contractor Debarment and Suspension**

Federal procurement guidelines prohibit contracting with any parties that are listed as active exclusions (i.e. suspensions, debarments) on the “System for Award Management” (SAM.gov). This list identifies all parties that have previously been debarred, suspended or otherwise excluded from receiving any solicitations for procurement activities in addition to contracting on any projects involving federal funds. The department grant manager is responsible for ensuring that the Parish does not contract with any debarred or suspended individual or company.

## **(4) Bonding Requirements**

The Parish will require the use of bid bonds and payment and performance bonds for purchases utilizing federal grant funding just as it would when using local or state funding. The bid bond and payment and performance bond requirements for the local or state funding are included in Sections III(A)(1), III(A) (2) and III(A) (3). These requirements comply with state law and also comply with the federal guidelines.

## **(5) Procurement of Recovered Materials**

When federal grant funds are being utilized, 2 CFR Section 200.323 requires procurements in excess of \$10,000 to contain the highest percentage of recovered materials practicable while consistent with maintaining a satisfactory level of competition. The Department Grant Manager and Department Supervisor should review, and coordinate with other departments as needed, all applicable purchases to determine how the Parish can incorporate these provisions into the purchases using federal grant funding. The Division of Finance will assist in the communication and implementation of these requirements if the formal bid process is being utilized. The details regarding the recovered materials requirement will be included in the bid specifications.

The Environmental Protection Agency (EPA) and the United States Department of Agriculture (USDA) will designate items that are considered to have recovered material components. Some of the products that can be purchased using recovered materials include, but are not limited to:

- (a) Construction Products (building insulation, carpet, carpet cushion, cement and concrete, consolidated and reprocessed latex paint, floor tiles, flowable fill, laminated paperboard, modular threshold ramps, non-pressure pipe, patio blocks, railroad grade crossing surfaces, roofing materials, shower and restroom dividers and structural fiberboard),
- (b) Landscaping Products (garden hoses, hydraulic mulch, lawn and garden edging),
- (c) Non-paper Office Products (office furniture, plastic envelopes, and plastic trash bags),
- (d) Paper and Paper Products (newsprint, paperboard and packaging products),
- (e) Parks and Recreation Products (plastic fencing and running tracks),
- (f) Transportation Products (channelizers, traffic cones and delineators),
- (g) Vehicular Products (engine coolants, retread tires and rebuild vehicular parts), and
- (h) Miscellaneous Products (mats, pallets and signage).

Exemptions from this requirement are available if the purchases cannot be competitively provided within a reasonable time frame, will not meet reasonable performance standards, or will not be at a reasonable price. Procurement specifications should provide that vendors/contractors provide certifications with respect to recovered materials utilized in the project.

## **IV. CONTRACT, BONDING AND INSURANCE REQUIREMENTS AND CONTRACT COSTS**

The Parish should maintain contract administration systems that ensure contractors perform in accordance with the terms, conditions, and specifications of any contracts or purchase orders. Individual departments should assign a specific employee the responsibility to oversee all procurement functions from the initial communication of a procurement need to the final vendor payment for that procurement. Records sufficient to detail the history of the procurement and contract compliance should be maintained. These records include, but are not limited to, the method of procurement, selection of contract type, contractor selection or rejections and the basis for the contract price. Record keeping issues have the potential to negatively affect the Parish's ability to receive subsequent grant awards. The Parish may require payment and performance bonds on various procurement activities as further discussed in Sections III(A)(1), III(A)(2), and III(A)(3) as well as III(B)(4). It is the responsibility of each department to ensure that the payment and performance bonds are received, are in sufficient amounts, and remain current until completion of the project.

With respect to insurance requirements, it is the responsibility of each department to ensure that Certificates of Insurance, when required by procurement specifications, are received and in sufficient amounts. When applicable the Parish should be listed as an additional insured on the Certificates. The department should track expiration dates on the Certificates of Insurance so that new Certificates are received for the new policy period if the project is still ongoing; otherwise, the contractor will be in default of the contract. Current insurance requirements related to procurement activities may be obtained from the Finance Division.

For the majority of purchases (some exceptions apply), the Parish will require either a purchase order or formal contract utilizing a fixed price type of arrangement which is discussed further in the next paragraph. A purchase order is the vendor's authorization to ship equipment, materials, supplies, or perform services specified. It constitutes a legal contract between the Parish and the vendor and should not be changed by anyone other than the Finance Division. For formal contracts, the Parish has created templates with standardized contract language for the majority of its written contracts. The purpose in developing standardized templates is to ensure that contracts issued by the Parish cover all required statutory guidance, are professional in development and content, and present a common ground for contract work. The standardized contract language has been reviewed by the Finance Division, Risk Management, and Parish Legal Counsel. The department should coordinate with the Finance Division to ensure that the appropriate contract template is utilized. The department should coordinate with the Finance Division and the Parish Legal Counsel for any revisions to the templates that it believes are required.

A fixed price purchase order or contract is effective when a complete project description, or scope of work, is available along with well-defined requirements and/or specifications. A fixed price contract must establish a guaranteed price that may not increase unless there is a contract amendment that increases the scope of work. Fixed price purchases are the preferred type of Parish agreement due to its ability to limit risk to the Parish. At times the scope and requirements of a project may not be fully known and a fixed price contract is not feasible. In these cases, the Parish may choose to go with a cost reimbursement contract. The cost reimbursement contract for time and materials will only be utilized after a determination that no other contract is suitable. The contract will only allow payments for the actual materials utilized and direct labor hours at the established fixed rates. The contract will include a ceiling price (or not to exceed amount) that the contractor exceeds at its own risk. Procurement and the vendor determine the materials and/or services to be provided; the rates to be used for the cost items identified; and set a target do not exceed amount for the contract. The do not exceed amount can only be revised with an approved written amendment to the contract. A third type of procurement arrangement is a cost plus percentage of cost and percentage of construction cost methods and **should not** be used in any purchase contract. The only exception to this "cost plus percentage of cost" policy is addressed in Parish architect or engineer contracts which provide a five percent (5%) mark-up on specialized consultants that a Parish architect or engineer may utilize to provide sufficient time to review and/or incorporate the specialized consultant's work into the project. This exception does not apply to specialized consultants where the architect or engineer are already billing the Parish on an hourly basis. Please refer to the Parish contract with the architect or engineer and Article 5.5 of the *"Procedure Manual for Design Projects Performed by Architects or Engineers"* which discusses this issue further. Louisiana Revised Statute 38:2221 prohibits cost plus contracts with only a few exceptions. If those exceptions become applicable to the Parish, the Division of Finance or Administration will approve the use of those exceptions. 2 CFR 200.324(d) prevents the use of cost plus a percentage of costs and percentage of construction cost contracts. A combination of the first two arrangements is possible when the circumstances warrant it.

Regardless of funding source (i.e. local, state or federal), the Parish utilizes standard purchase orders as written agreements in the majority of the smaller procurements. Contracts are utilized with the larger procurements. However, when federal funds are involved, the department grant manager should exercise additional caution and coordinate with the Finance Division regarding the proper procurement procedure to follow in addition to ensuring the contractual provisions and conditions for the grants are addressed. The contractual and grant condition requirements referred to in the previous statement will be affected by the following three (3) sources of laws and/or regulations: (1) Code of Federal Regulations (CFR), (2) specific grantor requirements, and (3) national policy requirements for grant programs. In accordance with 2 CFR, all federal procurement activity must be associated with "good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to, source evaluation, protests, disputes and claims."

## **(A) Code of Federal Regulations (CFR) – Specific Grantor Regulations**

As previously stated, any procurement utilizing federal funds need to comply with 2 CFR Part 200 which revised and consolidated into one location the following previously issued Circulars: Office of Management and Budget’s (OMB) Circular A-87 – Cost Principles for State, Local and Indian Tribal Governments and OMB Circular A-102 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. However, the other sections of the Code of Federal Regulations (CFR) also provide another significant source of information related to individual grant programs.

Traditionally the Parish has received the majority of its recurring federal funding from the federal agencies listed below. The Code of Federal Regulations for each of the federal agencies below will provide additional information related to specific grantor regulations.

- Agriculture Department – 2 CFR 400 et seq. and 7 CFR
- Energy Department – 2 CFR 900 et seq. and 10 CFR
- Department of Housing and Urban Development – 2 CFR 2400 et seq. and 24 CFR
- Justice Department – 2 CFR 2800 et seq. and 28 CFR
- Department of Labor – 2 CFR 2900 et seq. and 29 CFR
- Interior Department – 2 CFR 1400 et seq. and 43 CFR
- FEMA, Homeland Security Department – 2 CFR 3000 et seq. and 44 CFR
- Department of Health and Human Services – 2 CFR 300 et seq. and 45 CFR
- Department of Transportation – 2 CFR 1200 et seq. and 49 CFR

All Parish contracts that receive any portion of their funding directly or indirectly from a federal grant must contain the following provisions, as applicable, found in 2 CFR Part 200 Appendix II:

### **(1) Administrative, Contractual or Legal Remedies Provision**

For federal procurements in excess of the simplified acquisition threshold, which is currently at \$250,000, procurement contracts must contain a provision that addresses administrative, contractual, or legal remedies if contractors violate or breach contract terms and, when the circumstances are appropriate, the contract can address sanctions and penalties.

### **(2) Termination Provision**

All federal procurement contracts in excess of \$10,000 must have a provision allowing the Parish to terminate the contract for cause and for convenience including the manner in which it will be done and the basis for settlement.

### **(3) Equal Employment Provision**

For all contracts that meet the definition of “federally assisted construction contract” as defined in 41 CFR Part 60, a provision must be included in the contract for compliance with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR Part 60) which prohibits discrimination in employment under federal contracts.

**(4) Construction Wage Rate Requirements (Previously Known as Davis-Bacon Act Provision)**

When a grant program specifically requires compliance with Davis-Bacon Act then all construction contracts in excess of \$2,000 must contain a provision for compliance with this Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5). Among other requirements, this Act provides for the payment of wages to laborers and mechanics not less than once a week and at a rate not less the prevailing wage determination issued by the Secretary of Labor. (Note that not all federal grant programs are required to comply with Construction Wage Rate Requirements (previously referred to as Davis-Bacon Act) even if the activity involves construction work. Communication with the grantor is required.)

**(5) Contract Work Hours and Safety Standards Act Provision**

For all contracts in excess of \$100,000 which involve the employment of mechanics or laborers, a provision for compliance with the Contract Work Hours and Safety Standards Act (40 USC 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5) must be included in the contract.

**(6) Rights to Inventions Provision**

All contracts should include a provision notifying the contractor about any awarding agency requirements and regulations pertaining to the substitution of parties, assignment or performance of experimental, developmental or research work under the funding agreement as defined in 37 CFR Part 401.2(a). The federal award must meet the definition of a funding agreement as referenced above and the recipient or subrecipient desires to enter into a contract with a small business firm or nonprofit organization.

**(7) Clean Air Act and the Federal Water Pollution Control Act**

All contracts, subcontracts and sub-grants in excess of \$150,000 must contain a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

**(8) Debarment and Suspension**

All contracts must comply with 2 CFR Part 180 which implements Executive Orders 12549 and 12689 and prohibits the contracting with any party listed on the "System for Award Management" (SAM). SAM exclusions identify the names of all parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statute or regulatory authority other than Executive Order 12549.

**(9) Byrd Anti-Lobbying Prohibition**

Federal funds must not be used to pay any person or organization for influencing or attempting to influence anyone with any federal contract, grant or other award covered by 31 U.S.C.1352. 31 U.S.C. 1352 also requires that contractors that apply or bid for an award exceeding \$100,000 where federal funds are used must file the required certification stating that the parties will not and have not used federal funds to pay any person or organization for influencing or attempting to influence anyone with any federal contract, grant, or other award covered by 31 U.S.C. 1352.

**(10) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

2 CFR Part 200.216 prohibits use of federal grant or loan funds to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

**(11) Domestic Preferences for Procurements**

When federal funds are utilized, and where appropriate and to the extent consistent with other laws and regulations, 2 CFR Part 200.322 allows a federal award to 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).

**(12) Procurement of Recovered Materials**

2 CFR Part 200.323 requires procurements in excess of \$10,000 to contain the highest percentage of recovered materials practicable while consistent with maintaining a satisfactory level of competition in compliance with section 6002 of the Solid Waste Disposal Act.

In accordance with Louisiana Revised Statute 38:2227, an attestation regarding past criminal convictions, if any, is required from the lowest bidder responding to advertisements and letting for bids for public works contracts. The Past Criminal Convictions of Bidders form is included in all contracts for public works projects.

In accordance with Louisiana Revised Statute 38:2212.10, all bidders and contractors performing physical services with public entities must be registered and participate in a status verification system to verify all employees in the state are legal citizens of the United States or are legal aliens. The lowest bidder responding to advertisements and letting for bids for public works contract must sign an affidavit that they are complying with this law, and that all subcontractors will comply with this law.

The Parish should maintain contract administration systems that ensure contractors (or vendors) perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Remedial action by the Parish through legal processes should be considered in instances of identified significant nonperformance. Changes to the contract provisions will be considered and, if necessary, approved by the federal grantor agency.

**(B) Specific Grantor Requirements**

When the Parish is allocated a federal grant, a written cooperative endeavor (or sub-grant) agreement is routinely issued with the federal or state grantor agency regarding the specific operational and compliance issues that are applicable to that particular program. In addition to this agreement, the federal agency will also identify each of its program requirements in the previously referenced CFR. The federal or state agency may have also created a program guidance manual which should be utilized by the Parish department grant manager to ensure that all compliance requirements of the program are in fact adhered to by both the Parish and its contractors.

Before any purchase order, or purchase order number, is issued or any contract negotiated, the department grant manager needs to ensure that all specific grantor requirements are known, implemented and incorporated into the contract, when required. Parish contracts with grant funding need to include all applicable grant requirements within the body of the contract.

An example of the above requirement is the Department of Housing and Urban Development (HUD). HUD's grant requirement to include provisions for compliance with the following laws which are not all inclusive but primarily applicable to HUD programs: (1) Housing and Community Development Act of 1974 which provides that no person shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program funded in whole or in part with HUD funds, and (2) Housing and Urban Development Act of 1968 which ensures employment and other economic opportunities be directed to low and very low income persons when HUD funding is provided. Other federal agencies will refer to other laws that impact only certain grants. Reference to agency guidelines published in the Code of Federal Regulation (CFR) and grant agreements should be reviewed by the department grant managers prior to the commencement of any procurement activity.

### **(C) National Policy Requirements for Grant Programs**

Besides Federal Code regulations and specific grant requirements, national policy has established certain requirements applicable to contracts funded by federal grants. These national policy requirements consist of laws and regulations that must be followed by the Parish and its contractors when applicable. Failure to adhere to the regulations may result in fines, denial of current or future grant funding, or other disallowance of costs incurred.

The following list, which may not be all-inclusive for all federal programs, identifies some of the national policy requirements that may be applicable to a Parish contract when funded by a federal grant and should, therefore, be referenced in any contract executed when applicable or specifically required by the grantor agency. (Those requirements marked with an \*\* must be included in all procurement contracts while those requirements marked with an ++ are included in all procurement contracts as federally required contractual provisions for 2 CFR Part 200 Appendix II even though they may not be specifically applicable given the scope of the contract).

#### **(I) Civil Rights Requirements**

##### **(a) Civil Rights Act of 1964**

- (i) (When specifically required by the grantor agency) Title III** prohibits state and municipal governments from denying access to public facilities on grounds of race, religion, gender or ethnicity.
  - (ii) \*\*Title VI** prohibits a person from being (a) excluded from participation in, (b) denied the benefits of, or (c) subjected to discrimination based on race, color or national origin in federally funded programs.
  - (iii) (When specifically required by the grantor agency) Title VII** prohibits discrimination by employers on the basis of race, color, religion, sex or national origin including discrimination against an individual because of his or her association with another individual with the above protected rights.
- (b) (When applicable) Civil Rights Act of 1968 - Title VIII** - prohibits discrimination based on race, color, religion, sex, handicap, familial status or national origin in sale, rental or financing of housing.
  - (c) (When applicable) Title IX of the Education Amendments of 1972** prohibits discrimination on the basis of sex in any federally funded education program or activity.
  - (d) \*\*Age Discrimination Act of 1975** prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.



- (e) **(When applicable) Americans with Disabilities Act of 1990** is applicable for all areas of public life including jobs, schools, transportation and access to all places open to the general public and prohibits discrimination based on a disability defined as a physical or mental impairment that substantially limits a major life activity and includes the following provisions:
- (i) **Title I** prohibits discrimination against the disabled in employment activities (i.e. application procedures, hiring, advancement, training and discharge) and is regulated by the Equal Employment Opportunity Commission (EEOC).
  - (ii) **Title II** prohibits discrimination against the disabled by all public entities at the local and state level including access to all programs and services offered by the public entity as well as physical access to public buildings and is regulated by the Department of Justice (DOJ).
  - (iii) **Title III** prohibits discrimination against the disabled with regards to full use and enjoyment of any place of public accommodation and is regulated by the Department of Justice for public accommodations and Department of Transportation for transit activity.
  - (iv) **Title IV** requires the telecommunications industry to provide functionally equivalent services and is regulated by the Federal Communications Commission (FCC).
  - (v) **Title V** addresses other miscellaneous provisions related to discrimination including but not limited to retaliation prohibitions.
- (f) **(When specifically required by the grantor agency) Section 504 of the Rehabilitation Act of 1973** prohibits the discrimination of an otherwise qualified individual solely because of a disability from programs receiving federal financial assistance including program accessibility, accessible new construction and alterations, reasonable accommodations, and effective communication by the hearing and visually disabled.
- (g) **(When specifically applicable) Intergovernmental Personnel Act of 1970** addresses the merit system for recruiting, selecting and advancing state and local government personnel which are funded by specific federal grant programs.
- (h) **(When specifically applicable) Drug Abuse Office Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 and the Public Health Service Act of 1912** prohibit discrimination on the basis of drug abuse, alcohol abuse or alcoholism and provides for confidentiality of alcohol and drug abuse patient records.

## (2) Labor and Construction Requirements

- (a) **CFR Requirements from Section IV(A)** above that are applicable to this section and are thus reproduced as a Labor and Construction Requirement as well:
- (i) **\*\*++ Executive Order 11246, Equal Employment Opportunity** (as previously discussed in Section IV(A)(3) above) which applies to all contracts that meet the definition of “federally assisted construction contract” and prohibits discrimination in employment under federal contracts with respect to race, color, religion, or national origin. **Executive Order 11375** added the sex/gender classification to the coverage list.

- (ii) ++ **(When applicable) Davis-Bacon Act** requires all construction contracts in excess of \$2,000 to provide for the payment of prevailing wage rates to laborers and mechanics among other compliance requirements. (Note that not all federal grant programs are required to comply with Davis-Bacon Act even if the activity involves construction work. Communication with the grantor is required.)
- (iii) ++ **(When applicable) Contract Work Hours and Safety Standards Act** applies to all contracts in excess of \$100,000 that involve the employment of mechanics or laborers and requires that the wages of every mechanic and laborer be computed on the basis of a standard work week of forty hours with work in excess of forty hours per week being compensated at a rate of not less than one and one-half times the basic rate of pay. The Act also prohibits working conditions that are unsanitary, hazardous or dangerous to the employee's health or safety.
- (b) **(When applicable) Copeland "Anti-Kick-Back" Act (18 USC 874)** as supplemented by Department of Labor regulations (29 CFR Part 3) requires all contracts and sub-grants for construction or repair to contain a provision that prohibits a contractor or sub-recipient 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 is otherwise entitled.
- (c) \*\*\* **(When applicable) 31 USC 1352 Byrd Anti-Lobbying Prohibition** requires that grant funds not be used to influence or attempt to influence any person with respect to the awarding, making or modification of any federal contract, grant, loan or cooperative agreement. Procurement contracts should always include the above provision but the reporting requirements of this law are only applicable to contracts over \$100,000.
- (d) **(When applicable) Hatch Act** which specifically prohibits state or local government employees (whose principal employment is in connection with any federal loan or grant activity) from using his official authority to influence for purpose of affecting an election or from advising directly or indirectly the payment, lending or contributing anything of value to a political purpose or becoming a candidate for elective office. (This traditionally applies to sub-recipients of grants and not contractors unless the contractor is a state or local government entity.)
- (e) **(When applicable) Lead Based Paint Poisoning Prevention Act** prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
- (f) **(When specifically required by the grantor agency) Architectural Barriers Act of 1968** requires the design, construction and alteration of buildings and facilities financed with federal funds to accommodate physically handicapped persons with access to and use of such buildings.

### **(3) Environmental Protection Requirements**

- (a) ++ **Clean Air Act (42 U.S.C. 4701-7671)** regulates air emissions from stationary and mobile sources in order to address the public health and welfare risks posed by air pollutants and is required for contracts in excess of \$150,000.
- (b) ++ **Federal Water Pollution Control Act (33 U.S.C. 1251-1388)**, regulates the discharge of pollutants into waters as well as the quality standards of surface water and is required for contracts in excess of \$150,000.
- (c) **(When specifically required by the grantor agency) Safe Drinking Water Act of 1974** protects public health by regulating the nations' public drinking water supply and its sources including rivers, lakes, reservoirs, springs and ground water wells.

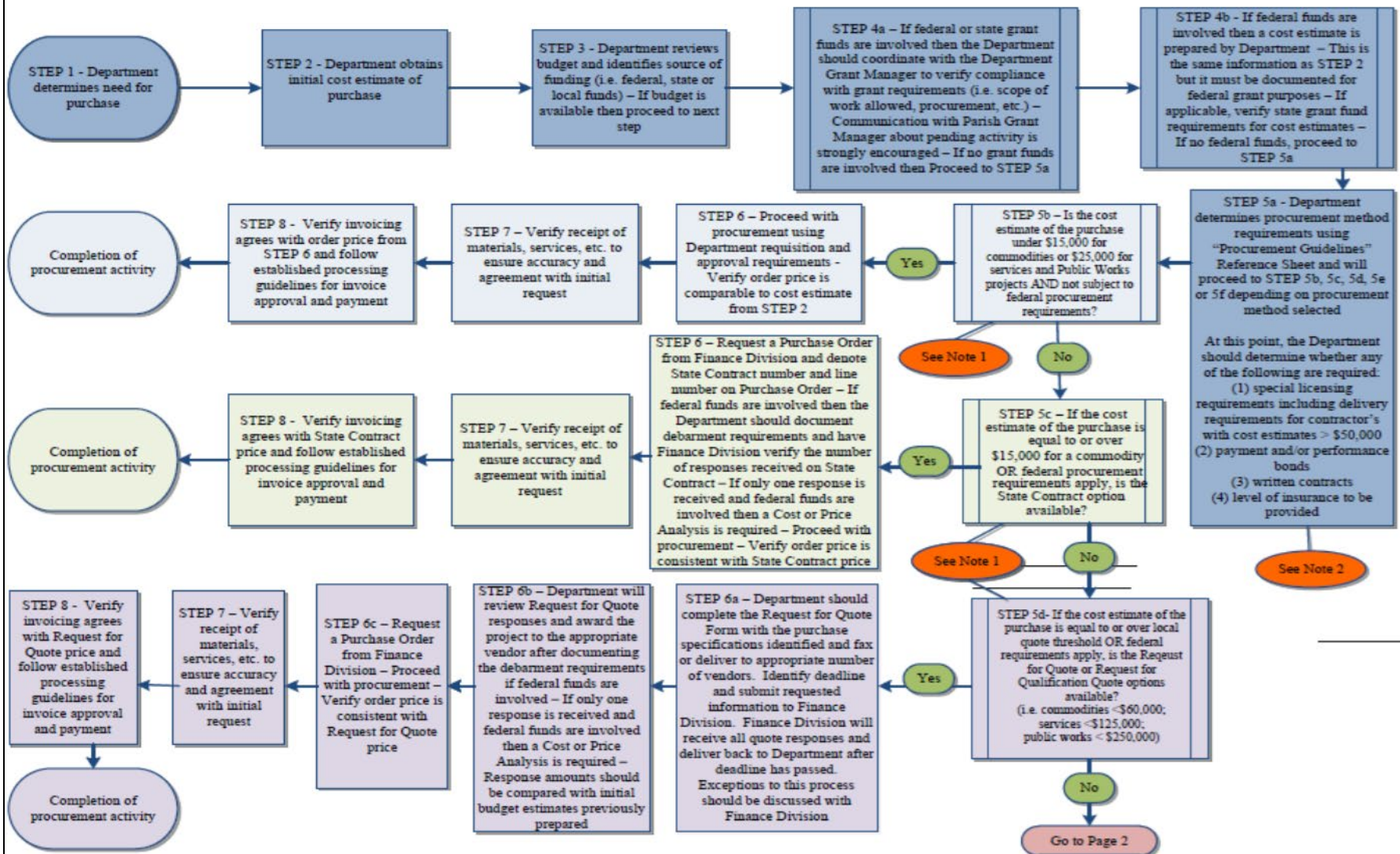
- (d) **\*\*Energy Policy and Conservation Act** is a broad sweeping energy related requirement that all contracts should reference that states the contractor will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan. In addition to this generic requirement, each individual grant will identify the specific environmental actions or reviews that must be complied with in order to complete the scope of work for the grant.
- (e) **(When applicable) National Environmental Policy Act (NEPA)** establishes regulations protecting the environment and ensuring that all branches of government, including grant sub recipients, take no action that will have an adverse impact on the environment.
- (f) **(When specifically required by the grantor agency) Coastal Zone Management Act of 1972** requires that federally funded activities be conducted in a manner so as to preserve, protect, develop and restore the resources of the Nation’s coastal zone in accordance with federal and state plans.
- (g) **Toxic Substance Control Act** places restrictions on chemicals that pose unreasonable risks, such as surfaces that could be covered with lead-based paint.
- (h) **++ Resource Conservation and Recovery Act of 1976 (2 CFR 200.322)** is applicable to non-federal entities and requires compliance with Section 6002 (of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act) to include “procuring only items designated in guidelines of the Environmental Protection Agency 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 so the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$20,000; procuring solid waste management services in a procurement of recovered materials identified in the EPA guidelines.”

#### (4) Other Requirements

- (a) **Reporting Provision** requires that all contracts should include a requirement that the contractor assist the Parish, when applicable, with any awarding agency requirements and regulations pertaining to reporting.
- (b) **Records Access Provision** requires that all negotiated contracts shall include a provision that makes it possible for the Parish, state or federal grantors, the Comptroller General of the United States, or any of their duly authorized representatives, to have access to any books, documents, papers, or records of the contractor/firm that are directly pertinent to the contract, for the purpose of making audit examination excerpts and transcriptions.
- (c) **Record Retention Provision** requires that any contract executed must include a provision that all required records will be maintained by the contractor/firm for a minimum period of three years (or longer as required by the specific grantor) after the Parish formally closes out each federal program. Parish grant managers should verify the three year (or longer as required by the specific grantor) record retention period with each respective grant agency to ensure that a longer period is not required.
- (d) **\*\*++Debarment and Suspension Prohibition** (as previously discussed in Section III(B)(3) above) requires that all contracts contain a provision that the Parish will not issue a contract with any party listed active exclusions (i.e. suspensions, debarments) on the “System for Award Management” (SAM.gov) or that the Parish will verify that the proposed vendor is not on this list or both. This list identifies all parties that have previously been debarred, suspended or otherwise excluded from contracting on any projects involving federal funds.

- (e) **(When specifically required by the grantor agency) Metric Conversion Act of 1975 and Executive Order 12770** states that the metric system is the preferred measurement system for U.S. trade and commerce.
- (f) **(When applicable) National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973** require the purchase of available flood insurance on property constructed, acquired or repaired with federal funding if the property is located in a special flood hazard area. These are applicable to all acquisitions, construction contracts in excess of \$10,000 or to any project specifically required by grantor agency.
- (g) **(When specifically required by the grantor agency) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** provides equitable and fair treatment of persons displaced or whose real property is acquired as a result of a federal or federally-assisted program.
- (h) **(When applicable) National Historic Preservation Act of 1966 as amended by Executive Order 11593 and Archaeological & Historic Preservation Act of 1974** requires an impact review of all federally funded or permitted projects on historical buildings, archaeological sites, or other historical resources.
- (i) **(When specifically required by the grantor agency) Wild and Scenic Rivers Act of 1968** protects free-flowing streams and any adjacent land areas that are included in the National Wild and Scenic Rivers System.
- (j) **(When specifically required by the grantor agency) Endangered Species Act of 1973** protects species that are listed as endangered and threatened.
- (k) **2013 National Defense Authorization Act (41 United States Code (U.S.C.) 4712, Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection)** subjects any subawards and contracts over the federal simplified acquisition threshold to the provisions of the above act regarding rights and remedies for employee whistleblower protections.
- (l) **(When specifically required by the grantor agency)**, Vendors may be required to have an active Unique Entity ID (UEI), as verified on [www.sam.gov](http://www.sam.gov), prior to the beginning of construction or the project.

CALCASIEU PARISH POLICE JURY - PROCUREMENT FLOWCHART

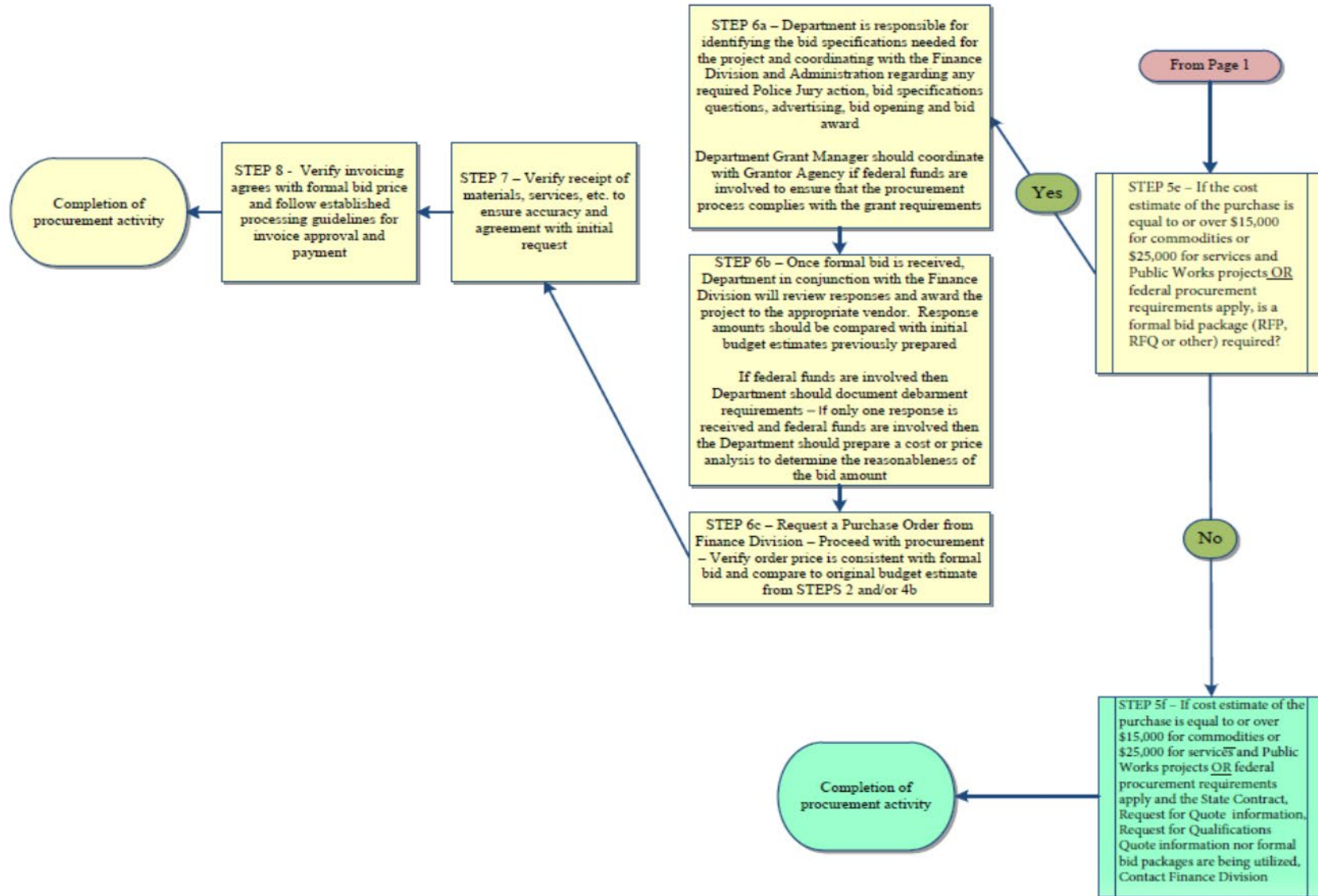


Note 1 - The 60,000 formal competitive bid requirement for commodity purchases is applied to the Parish's annual purchases for that commodity type not just each individual department's annual purchase amount.

Note 2 - Templates for standard contracts, as well as current insurance requirements, are located on the "P" Drive. Since these forms are updated periodically to address immediate issues that are brought to our attention, please ensure that you are using the most current applicable version posted to the "P" Drive.

CALCASIEU PARISH POLICE JURY - PROCUREMENT FLOWCHART

APPENDIX A – PROCUREMENT FLOWCHART



## APPENDIX B – EXEMPT SERVICES LIST

When non-federal funds are being utilized to fund a specific procurement, it is the intent of this policy to attempt to obtain competitive prices on service related activity whenever it is feasible to do so. However, there are certain services that are of such a specialized field, sensitive in nature, emergency related, covered by other eligibility program requirements or for another viable reason makes the procurement not susceptible to further procedures. The following is a list of services that the Parish currently considers exempt from competitive pricing. This list is not all-inclusive and will be updated when needed in order to properly address future services that qualify for this designation. Validations in writing are required for exempted services not listed herein.

Attorneys – Parish and Litigation  
Architectural, Engineering and associated services  
Aviation related services  
Contract Labor for certain “employee type” activities (Case by case basis)  
Cooperative Endeavor Agreements with other entities for service related projects  
Court related services  
Deputy Coroner and related services  
Disabled vehicles/equipment services (i.e. avoid further towing)  
Emergency Response Equipment or Network Security related services (911, various critical systems)  
Employment related services (Drug Screening, Medical and Background Screenings, Employee Counseling)  
Federal or State Program Recipient related services (Housing, Day Care, etc.)  
Financial or Specialized Service Software (Bloomberg, Credit Card, Engineering, etc.)  
Instructors for certain program activities  
Maintenance contracts (Building, Technical Hardware or Software)  
Medical related services (Health and Worker’s Compensation, Prisoner Care)  
Security related services from the Calcasieu Parish Sheriff’s office or the Marshall’s office  
Social Services Contracts (Services for Shelter Care, Juvenile Consulting, etc.)  
Specialized Consulting Services  
Veterinary Services