

# **PROCUREMENT POLICY**



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# PROCUREMENT AUTHORITY

## OVERVIEW

### Purpose:

The purpose of this manual is to serve as the purchasing guide for the South East Texas Regional Planning Commission (SETRPC). It contains standard procedures and parameters for procuring goods and services under applicable state and federal guidelines. These policies and procedures are intended to comply with the general requirements of Chapters 252 & 791 of the Local Government Code as well as 45 CFR 92 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments (formerly OMB Circular A-102), 2 CFR 200 - Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87), and the Texas Grant Management Standards (TxGMS).

### Objectives:

The objectives of the policies and procedures are to assist SETRPC staff by defining general and specific decisions included in, but not limited to the following:

- ◆ To define the procurement authority, activities, and procedures
- ◆ To provide consistency in the procurement practices of SETRPC with regard to applicable procurement laws
- ◆ To develop improved policies and procedures through ongoing review and update
- ◆ To utilize federal, state and local funds in the most efficient and effective manner as practical
- ◆ To promote understanding, cooperation, and a sense of equitable treatment among suppliers
- ◆ To ensure that full accounting is available and given for all procurement

At no time are these policies intended to modify, conflict, or be less stringent than the laws or rules and regulations of the United States, the State of Texas or the policies of any Federal or State grantor agency from which SETRPC receives specific funds. Should such a conflict arise, the guidance of the United States or the State of Texas grantor agency or their constituent units shall prevail.

All separate, sequential, or component purchases of items from the same bidder/offeror, by the same or various departments are not considered to be part of a single purchase and single contract by SETRPC if a specific intent to circumvent the procurement policy is not present.

The signature by the Department Director or designee on the appropriate purchase document provides certification that the purchase meets these procurement policies, applicable grant requirements or restrictions and that adequate funds have been authorized for the purchase.

## **APPROVAL AUTHORITY**

### **SETRPC Executive Committee Authority:**

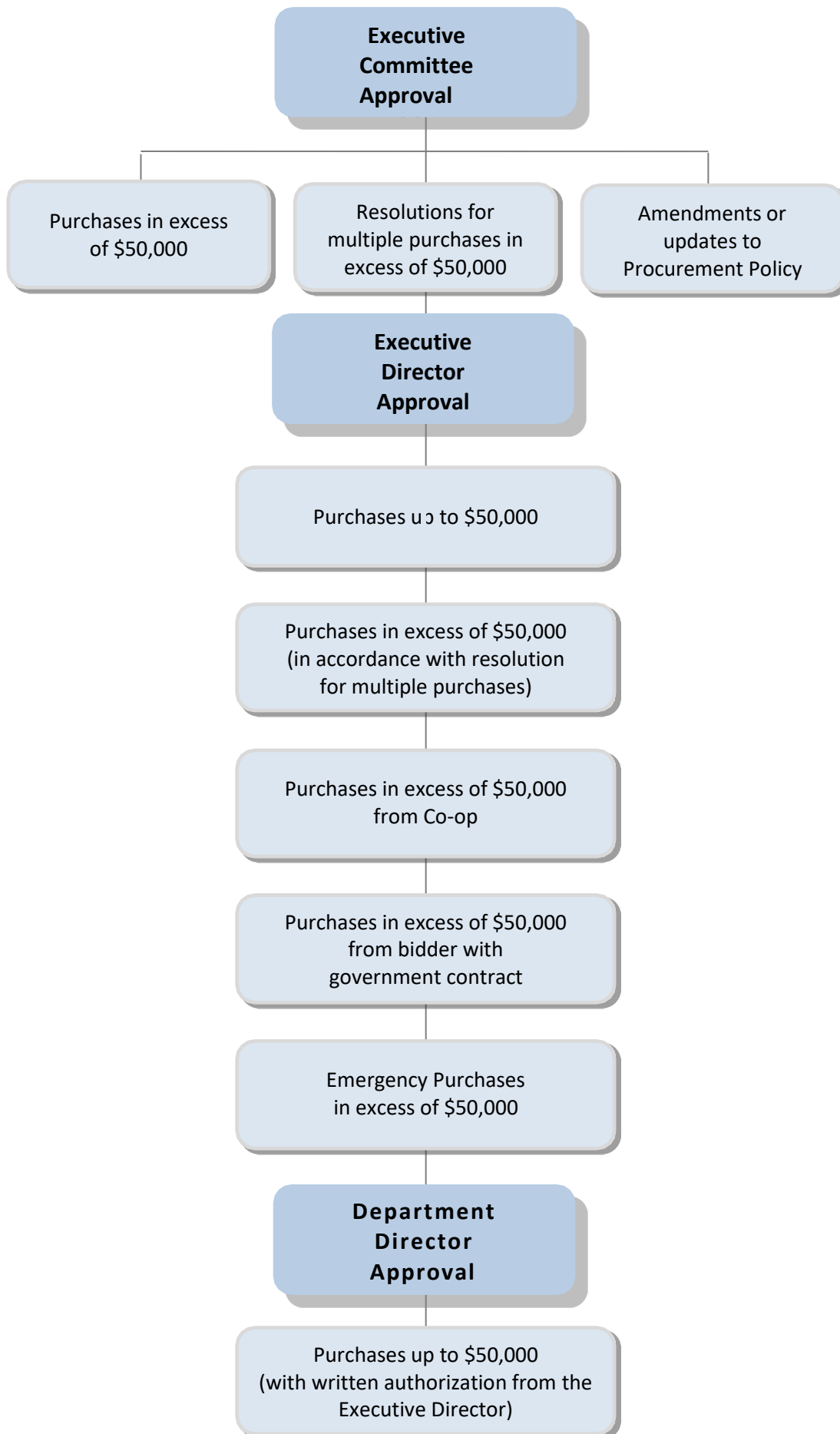
- ◆ Approve formal contracts or bidder/offeror agreements in excess of \$50,000
- ◆ Approve any amendments or updates to the procurement policies
- ◆ Approve a resolution for multiple procurements in excess of \$50,000 when extenuating circumstances exist

### **Executive Director Authority:**

- ◆ Approve purchases up to \$50,000 (may be delegated to Department Director)
- ◆ Approve purchases in excess of \$50,000 in accordance with approved resolutions
- ◆ Approve purchases in excess of \$50,000 which are made through co-operative purchasing programs
- ◆ Approve purchases in excess of \$50,000 which are made through bidder with government contracts

### **Department Director Authority:**

- ◆ May approve purchases up to \$50,000 with written authorization from the Executive Director
- ◆ Process procurement requests
- ◆ Identify, solicit and select bidders/offerors
- ◆ Negotiate purchase orders, contracts and bidder/offeror agreements
- ◆ Monitor the terms and conditions of the contracts and bidder/offeror agreements
- ◆ Ensure there is complete and accurate documentation of all procurements
- ◆ Maintain all procurement files and records
- ◆ Assume any other responsibilities assigned by the Executive Director
- ◆ Department Director may delegate approval authority as needed



## **PROCUREMENT CYCLE**

### **IDENTIFY NEEDS**

The Department Director or designee procuring the goods or services should identify the needs based on federal, state, or local contractual obligations and ongoing operational needs. A written specification of identified needs must be included in the solicitation package. A specification is a detailed description of goods or services needed, as well as a description of the method of evaluation used for bid award. The specifications control the following procurement aspects:

- ◆ Quality of the goods or services
- ◆ Estimated total cost of goods or services
- ◆ Suitability of the goods or services for the job
- ◆ Method of evaluation used in determining the bid with the best value (or demonstrated qualifications for professional and consulting services).

Independent cost or price analysis shall be performed prior to every procurement action, including contract modifications to assist in the evaluation of the procurement.

- ◆ An independent cost estimate is required:
  - When the offeror must submit the elements of his estimated cost (for professional, consulting and architectural/engineering services contracts); and
  - When adequate price competition is lacking, such as sole source procurements, change orders or contract modifications.

A cost analysis shall include a review, evaluation and verification of each element of cost submitted in the line item budget to determine whether costs are reasonable, necessary and allowable under applicable cost principles. Each cost, as well as profit, contributes to the total price.

A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

A price analysis may be conducted by comparing price quotations submitted or by comparing price quotations with current market prices, considering any discounts. The analysis includes a comparison of prices paid for the same or similar products in the past, as well as the current market rate, including consideration of quantities, production and delivery rates. In-house estimates of cost may also be used.

**NOTE:** *A good faith effort should be made when estimating the total cost in order to choose the proper procurement category. If actual costs exceed the estimated cost and the original procurement category, you must re-procure and follow the procedure for that category.*

### **CHOOSING A PROCUREMENT PROCESS**

#### **1) Invitation for Bid (IFB):**

This competitive method of contracting is used for contracts or purchases over \$50,000. It consists of competitive bidding, opening of bids and a contract award. This type of bidding is very specific - amount and date needed are known and price and price-related factors come into play for the award.

IFBs must clearly state whether the contract will be awarded to the lowest responsible bidder or on the basis of best value in accordance with applicable law.



The IFB process, unless otherwise specified by law or program requirements, should be the method of procurement. Exceptions to the IFB process are:

RFP's

Informal Purchases

Selection of Professional, Planning and Personal Services

Proprietary / Sole Source Purchases

Emergency Purchases

Co-operative Purchases / Government Contract Purchases

Alternative Procurement Methods for Certain Facilities

*NOTE: Contract must be awarded to the lowest responsible bidder if an IFB process is used for contract for construction. For best value awards see Alternative Procurement Methods for Certain Facilities.*

## **2) Request for Qualifications (RFQ):**

The procurement process utilized for the acquisition of professional services (as defined in Chapter 2254 in the Local Government Code) is a Request for Qualifications (RFQ). In the RFQ process, selection is based solely on the skills and qualifications of the contractor. Price is not a factor until after a contractor is selected; then the price is negotiated. This process emphasizes the competency of the proposed contractors.

## **3) Request for Proposal (RFP):**

A Request for Proposal (RFP) is a written request for proposals concerning goods or services SETRPC intends to acquire by means of the sealed bid proposal procedure. This procedure is similar to the IFB procurement process; however, a negotiation phase is allowed and a best and final offer is permitted.

RFPs must clearly set forth all requirements to be met by the offeror for evaluation. For RFPs, the weight of each criterion must be specified.

A Request For Proposal (RFP) will be used for the procurement of planning services and personal services. The RFP may also be used to procure professional services other than those defined by Chapter 2254 of the Local Government Code.

Discussions in accordance with the terms of the RFP may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of proposals to obtain the best final offers.

## **CHOOSING A PROCUREMENT CATEGORY**

In the absence of a contract or bidder/offeror agreement, a purchase order must be completed for all purchases greater than \$10,000 and, at the discretion of the Department Director or designee, may be completed for any amount under \$10,000. The purchase order shall contain the following information:

- ◆ Date of requisition
- ◆ Department
- ◆ SETRPC procurement contact

- ◆ Quantity
- ◆ Unit cost / total cost
- ◆ Description of goods or services
- ◆ Authorized signature of Department Director or designee
- ◆ If the potential exists to go above the category threshold you should procure based on the higher category.

### **1) Micro-Purchases: Up to \$10,000:**

For purchases up to \$10,000, in the aggregate, competitive procurement is not required; however, procurement must be from a reputable bidder at a reasonable price.

### **2) Simplified Acquisition Informal Telephone/Fax/EMail: \$10,001 - \$25,000:**

- ◆ Must solicit informal competitive bids.
- ◆ Must obtain a minimum of three telephone, email or facsimile bids.
- ◆ The bids must be recorded, in writing, and made part of the procurement file. All notes of telephone, facsimile and electronic mail will be made part of the procurement file.
- ◆ An award should be made consistent with competitive bidding policies and in conformance with maximizing free and open competition.

### **3) Simplified Acquisition Informal Competitive Written: \$25,001 - \$50,000:**

- ◆ The buyer or his designee must solicit written requests for bids from prospective buyers
- ◆ IFB and RFP documents may be used for this process
- ◆ Bids must be obtained from at least three different entities, if available, or deviation must be documented.
- ◆ The written bids shall be reviewed to determine cost reasonableness and to avoid the purchase of unnecessary or duplicate items.
- ◆ The selected bid, along with those that were not selected, shall be made part of the procurement file.

### **4) Formal - Over \$50,000:**

Formal procurement should be based on clear and accurate descriptions of the requirements for the goods or services needed. (*see Identify Needs*)

Each Department Director or designee is responsible for maintaining a master control list for all procurement greater than \$50,000. (*see Attachment A*)

The description will not contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other relevant requirements of procurement. When so used, the specific features of the named brand which shall be met by offerors should be clearly specified.

Offers shall be solicited by sending the procurement package to an adequate number of qualified sources, as well as through publication of the procurement (*see Bid Advertising Requirements*) and responding to requests for the procurement to the maximum extent feasible.

The acceptable methods of delivery include:

- ◆ Direct mail
- ◆ Hand delivery

The IFB/RFP package may include the following:

- ◆ Purpose, goals and/or objectives, including performance standards
- ◆ Outline the format and sequence for submitting responses
- ◆ Bidder/offeror conference information, if applicable (bidder/offeror conference occurs after solicitation but before bid/offer is due)
- ◆ Bidder/offeror instructions, including request for information regarding bidder/offeror:
  - Transmittal letter
  - Authorized representative(s) and/or signatory
  - References, including contact information
  - Background and experience
  - Accounting system
  - Audit/monitoring results
  - Financial capacity
  - Proposed Scope of Work
  - Budget
  - Performance schedule
- ◆ Type of contract:
  - Cost reimbursement
  - Fixed price
  - Fixed unit price
- ◆ Brief description of the goods or services
- ◆ Closing date and hour for receiving bids
- ◆ Address and office where bids should be submitted
- ◆ Information on when and where specifications may be reviewed or obtained
- ◆ Designated SETRPC procurement contact
- ◆ Protest procedures
  - Contact person
  - Time period for submission of protests
  - Trigger events for submission, responses and replies to protests

- Statements regarding right to reject any and all bids/offers, right to recall all or portions of the IFB/RFP and right to terminate contract for convenience.
- ◆ Rating method including evaluation factors and their weight and relative importance, negotiation rights and requirements
- ◆ Return bid envelope must include:
  - Name of bidder/offeror responding to the IFB/RFP
  - Title or identifying number of the IFB/RFP the bidder/offeror is responding to
  - IFB/RFP due date

#### RFPs Only:

- ◆ Negotiation rights and requirements with respect to clarifying, explaining and verifying any aspect of an offer submitted in response to an RFP.
- ◆ Evaluation
  - Identify reviewing staff
  - Specify how offers will be reviewed
  - Ranking or rating criteria, including the manner in which points will be assigned
  - Any and all consideration relating to competition, reasonableness of cost/price, organization issues and scope of work

#### IFBs Only:

- ◆ In accordance with Local Government Code 252.0435, SETRPC may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:
  - SETRPC has adopted a written definition and criteria for accurately determining the safety record of a bidder;
  - SETRPC has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and
  - The determinations are not arbitrary.

### ***CHOOSING SERVICE TYPE NEEDED***

#### **1) Professional Services:**

Professional services should be selected on the basis of demonstrated qualifications for the type of professional services to be performed and at fair and reasonable prices. The professional fees must be consistent with and not higher than the published recommended practices and fees of the various applicable professional associations and not exceed the maximum provided by any state law. Competitor's qualifications are evaluated with the most qualified competitors selected, subject to negotiation of fair and reasonable compensation.

Selection of professional services noted in the Local Government Code Section 2254 (see Professional Services Procurement Act) must be selected through the use of an RFQ. The RFQ process should include but is not limited to:

- ◆ Statement of qualifications

- ◆ Public advertising (see Bid Advertising Requirements)
- ◆ Description of professional services required
- ◆ Detailed outline of the information required of each offeror
- ◆ Request for the estimated cost of the services may be included but is not required
- ◆ Evaluation criteria used for selection

Other professional services may be selected (at SETRPC's option) using either an RFQ or RFP. Examples of other services:

- ◆ Web designers
- ◆ Actuarial services
- ◆ Copywriters

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## **Professional Services Procurement Act**

### **Sec. 2254.002. DEFINITIONS.**

1) "Governmental entity" means:

- A. a state agency or department;
- B. a district, authority, county, municipality, or other political subdivision of the state;
- C. a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
- D. a publicly owned utility.

2) "Professional services" means services:

- A. within the scope of the practice, as defined by state law, of:
  - (i) accounting;
  - (ii) architecture;
  - (iii) landscape architecture;
  - (iv) land surveying;
  - (v) medicine;
  - (vi) optometry;
  - (vii) professional engineering;
  - (viii) real estate appraising; or
  - (ix) professional nursing; or
- B. provided in connection with the professional employment or practice of a person who is licensed or registered as:
  - (i) a certified public accountant;
  - (ii) an architect;
  - (iii) a landscape architect;
  - (iv) a land surveyor;
  - (v) a physician, including a surgeon;
  - (vi) an optometrist;
  - (vii) a professional engineer;
  - (viii) a state certified or state licensed real estate appraiser; or
  - (ix) a registered nurse.

### **Sec. 2254.003. SELECTION OF PROVIDER; FEES.**

- a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:
  - 1) on the basis of demonstrated competence and qualifications to perform the services; and
  - 2) for a fair and reasonable price.
- b) The professional fees under the contract may not exceed any maximum provided by law.

### **Sec. 2254.0031. INDEMNIFICATION.**

A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a contractor to indemnify or hold harmless the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

### **Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR.**

- a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:
  - 1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
  - 2) then attempt to negotiate with that provider a contract at a fair and reasonable price.
- b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:
  - 1) formally end negotiations with that provider;
  - 2) select the next most highly qualified provider; and
  - 3) attempt to negotiate a contract with that provider at a fair and reasonable price.
- c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

### **Sec. 2254.005. VOID CONTRACT.**

A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

## **2) Planning Services (Consulting Services):**

- ◆ Planning services are those services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan or regional councils.
- ◆ In order to comply with SETRPC By-laws, Planning services shall be considered “consulting services” and therefore, prior to awarding a contract for consulting services the Executive Director shall recommend the consultant to the SETRPC Executive Committee as an Action Item in accordance with SETRPC By-laws, Article VIII, Part 4, which reads: “The Executive Director shall recommend the employment of consultants to the Executive Committee.”

## **3) Personal Services:**

“Personal services” are defined as those services which are performed personally by the individual contracted to perform them. Further, for a contract to qualify as a contract for personal services, the compensation in the contract should mainly pay for the labor of the individual providing the service, not for such things as insurance or materials.

Some Characteristics of “personal services” are:

- ◆ Services that are technical in nature and meet more specialized needs. Work is predominantly intellectual and varied.
- ◆ Work is independent from the day-to-day control of the agency; the individual maintains control of work methods
- ◆ Work requires regular exercise of judgment, discretion, and decision-making
- ◆ May require advanced or specialized knowledge, or expertise gained over an extensive period of time in a specialized field of experience
- ◆ Work may be original and creative in character in a recognized field of endeavor, the result of which may depend primarily on the individual’s invention, imagination, or talent
- ◆ Individual generally assumes risk of loss if the requirements are not satisfied

Some examples of personal services are:

This list below is a guide to assist in determining whether a service is generally considered a personal service and is not all inclusive.

- ◆ Grant writing
- ◆ Graphic design (creative or original in nature)
- ◆ Guest speakers
- ◆ Marketing services, including identifying market opportunities, conduct of marketing programs, planning, promotion, market research surveys, etc.
- ◆ Outreach services for programs
- ◆ Public relations services
- ◆ Training - when it is: (a) offered to specific categories or classes of employees; (b) offered to all or most agency employees six times or less in a fiscal year

## Selection Methods for Planning and Personal Services:

- Selection of personal or planning services will be made using a RFP when the commitment value exceeds \$50,000.
- Contract must be awarded to the respondent whose offer is determined to be the most advantageous to SETRPC, considering the relative importance of price and the other evaluation factors set forth in the RFP.

### **4) High Technology and Insurance Services:**

Procurement may only be done by competitive sealed RFP when the commitment value exceeds \$50,000.

“High Technology Procurement” means the procurement of equipment, goods, or services of a highly technical nature, including;

- Data processing equipment and software and firmware used in conjunction with data processing equipment
- Telecommunications equipment and radio and microwave systems
- Electronic distributed control systems, including building energy management systems
- Technical services related to those items

### **5) Pass-Through Services:**

The procurement of pass-through services from private and non-profit service providers and local governments will be procured through the RFP process or in accordance with Chapter 791 of the Local Government Code when the commitment value exceeds \$50,000. Subrecipient and contractor status is determined based on guidelines stated in 2 CFR part 200.330

### **6) Legal Services:**

State law does not specify any particular procedures for obtaining the services of a lawyer or of a law firm. The Professional Services Procurement Act does not apply to attorneys, and the selection of an attorney is presumably exempt from competitive bidding requirements as a “professional service.”

SETRPC may choose to obtain the services of an attorney with or without the use of competitive bidding.

## ***CHOOSING A PURCHASE METHOD***

### **1) Proprietary Purchases (Sole Source):**

A proprietary product or service has a distinctive characteristic that is not shared by competing products or services. When the specification limits consideration to one manufacturer, one product or one service provider, you must include a written justification for the proprietary purchase in the procurement file.

Justification for noncompetitive procurement is required for all procurement requests in excess of \$3,500 where the initiating Department Director concludes that one source has exclusive capability to perform the work within the time required and at a reasonable price and recommends that a contract, purchase order or bidder/offeror agreement be negotiated with only that source. The recommendation shall examine the reasons for the procurement being noncompetitive or non-responsive; the degree of consideration that has been given to other sources in that particular field and the reason(s) they lack the capability and/or capacity that the proposed source evidences.



Goods or services may be acquired by proprietary purchase if they constitute (1) goods or services available from only one source because of patents, copyrights, secret processes or natural monopolies, (2) films, manuscripts or books, or (3) captive replacement parts or components for equipment, (4) or as otherwise determined by the Executive Director. The SETRPC may acquire by proprietary purchase those goods and services, including replacement parts or components for equipment, that are necessary to ensure the compatible integration of the SETRPC's technology-based equipment, computer network or software system.

#### **Proprietary Purchase Justification Procedure:**

- ◆ The process may be initiated with an IFB, RFP, RFQ or the Informal Solicitation process.
- ◆ The sole source should be required to submit relatively complete bid/offer documentation, including a description of the work to be accomplished and a proposed contract price.
- ◆ Negotiations should be conducted with the sole source to obtain the best possible price.
- ◆ The negotiations should be documented and retained in the procurement file along with the sole source justification. (see Attachment B)

**NOTE:** Prior grantor approval may be contractually required and may supersede the requirements of the Proprietary Purchase/Sole Source section.

## **2) Emergency Purchases:**

Emergencies occur as the result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises in which compliance with normal procurement practice is impracticable or contrary to the public interest an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to SETRPC.

Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies should be made as competitive as possible under the circumstances. If an emergency exists a written determination of the basis for the emergency and for the selection of a particular bidder shall be included in the procurement file in accordance with this section. Emergency purchases of goods or services should not exceed the scope or duration of the emergency.

#### **Emergency Purchases Justification Procedures:**

- ◆ Purchases \$3,501 - \$50,000
  - At least three informal bids are encouraged whenever possible on all emergency purchases \$3,501 to \$50,000. An award should be made based on best value, considering the type of emergency
- ◆ Purchases over \$50,000
  - Must be approved and signed by Executive Director

Emergency purchases require a letter of justification documenting the emergency which must be signed by the Department Director or designee, and at a minimum address the following:

- ◆ The nature of the emergency purchase (hazard to life, health, safety, welfare, or property or to avoid undue additional cost to SETRPC), and what caused the emergency situation

- ◆ The estimated impact or damage either financial or otherwise that will occur by following normal procurement practices. General statements of loss or nominal damage are not acceptable. (see Attachment C)

**NOTE:** Prior grantor approval may be contractually required and may supersede the requirements of the Emergency Purchases section.

### **3) Co-operative Purchases / Governmental Contract Purchases:**

This type of purchasing means a government or organization of governments established to provide SETRPC access to contracts with bidders for the purchase of goods or services.

Local Government Code Section 271.102(c) states *“A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.”*

SETRPC is classified as a local government according to Local Government Code Section 271.101(2): *“Local government” means a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of the state.”*

The procurement requirements for competitively procuring goods or services are satisfied when these purchases are made through Co-operative Purchasing agreements or Government Contracts. To verify that such an agreement is used, make a reference to the binding contract number if available.

Such examples are listed below but are not all inclusive:

- ◆ Department of Information Resources (DIR)
- ◆ Houston-Galveston Area Council of Government (HGAC) Co-op Agreement
- ◆ State of Texas Co-op
- ◆ Texas Multiple Award Schedule (TXMAS)
- ◆ Texas Procurement and Support Services (TPASS)
- ◆ TxSmartBuy

### **4) Blanket Purchases:**

Purchases of goods or services that SETRPC requires on a repetitive need or an “as-needed” basis, multiple purchase orders may be eliminated by submitting one purchase order to establish a Blanket Purchase Order. Goods or services from bidder will not be shipped until SETRPC authorizes them to do so in writing. Goods or services will be purchased for the fiscal year to which they apply. In addition to purchase order requirements, the blanket purchase order should include the following:

- ◆ Beginning and ending time period for the blanket purchase order
- ◆ Statement noting that all deliveries will be ordered on an “as-needed” basis
- ◆ Estimated quantity
- ◆ Statement limiting the maximum quantity that may be purchased
- ◆ Statement that none of the quantities are guaranteed

The maximum quantity that can be purchased utilizing a blanket purchase order must total less than \$50,000 without utilizing a formal competitive purchasing process. Amounts totaling less than \$50,000 for the time period should be awarded on the basis of the applicable informal competitive procurement process. Anticipated purchases should not be broken into smaller packages to avoid the competitive procurement requirements. Blanket purchase orders should only be effective for less than a year. If it is anticipated that procurements over the year will exceed \$50,000 then the appropriate competitive procurement process should be utilized.

### **5) Pre-Qualified Bidder/Offeror List Purchases:**

The Department Director or designee can pre-qualify a list of bidders/offerors. If the grant requires a pre-qualification process, then any bid receiving a contract award must be on the department's list of pre-qualified bidders/offerors. If at any time a department determines that more qualified bidders/offerors are needed, the pre-qualification process may be repeated.

In order to develop the list of pre-qualified bidders/offerors, the Department Director or designee will follow the RFQ process (see Choosing a Procurement Process). Once the list of pre-qualified bidders/offerors has been established, an IFB will be sent only to those bidders/offerors on the pre-qualified bidders/offerors list.

Contractors and sub-contractors must not be debarred, suspended, or ineligible (according to the U.S. General Services Administration's EPLS) from Federal Procurement or Non-Procurement Program (see *Related Documents*).

The department must provide adequate documentation to show that the bidder/offeror selection was conducted in a fair and open process (see *Bid/Offer Evaluation and Bid/Offer Scoring*).

A bidder/offeror may be removed from SETRPC's Pre-Qualified Bidder/Offeror List for reasons including but not limited to:

- ◆ Failure to meet the requirements stated in the RFQ
- ◆ Failure to perform the work required in the contract
- ◆ Inability to establish and maintain a consistent working relationship with applicants
- ◆ Failure to secure the required bonding and insurance

### **6) Alternative Procurement Methods for Certain Facilities:**

If SETRPC chooses to enter into a contract for the construction of a facility, SETRPC may use any of the following methods that provide the best value (following the guidance in Chapter 271, Subchapter H of the Local Government Code).

- ◆ Competitive Sealed Bidding
  - SETRPC must award a competitively bid contract for construction services to the bidder offering the best value based on the criteria set forth below. The contract is not required to be awarded strictly to the lowest responsible bidder.
- ◆ Competitive Negotiation
- ◆ A design-build contract

- ◆ A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager
- ◆ A job order contract for the minor repair, rehabilitation, or alteration of a facility

A “facility” includes buildings the design and construction of which are governed by accepted building codes.

- ◆ A facility does not include: highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

SETRPC must publish in the requests for bids, offers or qualifications all the criteria that will be used to evaluate the bidder/offeror and the relative weights given to the criteria. In awarding a contract, SETRPC may consider the following:

- ◆ The purchase price
- ◆ The reputation of the bidder/offeror
- ◆ The quality of the bidder’s/offeror’s goods or services meet SETRPC’s needs
- ◆ The bidder’s/offeror’s past relationship with SETRPC
- ◆ The impact on the ability of SETRPC to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities
- ◆ The total long-term cost to SETRPC to acquire the bidder’s/offeror’s goods or services
- ◆ Any relevant criteria specifically listed in the IFB, RFP or RFQ.

A construction contract must be awarded to the bidder who offers the best value to SETRPC based on the published selection criteria and on its ranking evaluation. SETRPC must document the basis for its decision regarding the contract award.

## ***BID ADVERTISING REQUIREMENTS***

Bid advertising must be conducted in a fair and open process subject to Grantor requirements. Minimum advertising requirements are as follows:

- ◆ Short title and a brief description of the goods or services to be procured and any applicable state product or service commodity codes for the goods and services
- ◆ Last date and time on which bids, offers, or other applicable expressions of interest will be accepted
- ◆ Estimated quantity of goods or services to be procured
- ◆ Estimated time frame when the goods or services will be needed
- ◆ Purchase order number, if applicable

- ◆ Legal notices must be published in local newspapers once a week for two consecutive weeks to ensure adequate regional coverage
- ◆ The first newspaper publication must be before the 14<sup>th</sup> day before the date set to publicly open the bids/offers.

### **BIDDER/OFFEROR CERTIFICATION**

SETRPC requires prospective bidders/offers to affirm their compliance with state and federal laws. Bidder/offeror affirmations become part of the procurement and are binding terms and conditions of any resulting contract, purchase order, or bidder/offeror agreement. Any misrepresentation or false statement is a breach of contract which shall void or make voidable any solicitation or resulting contract (*see Attachment D*).

At a minimum, the following affirmations are standard terms and conditions that are required in all solicitations subject to grantor requirements:

- ◆ The bidder/offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted bid.
- ◆ The bidder/offeror has not received compensation from SETRPC for participation in the preparation of specifications for this procurement.
- ◆ The bidder/offeror certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified grant or contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- ◆ The bidder/offeror shall defend, indemnify and hold harmless SETRPC and all of its officers and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities arising out of, connected with, or resulting from any acts or omissions of the bidder/offeror, employee, subcontractor, or supplier of contractor in execution or performance of the contract.

### **BID/OFFER RECEIPT**

Formal bids, by law, must remain sealed until bid opening. Proper identification of the envelope is important. Upon receipt, the sealed bids should be marked with the date and time directly on the envelope, then kept in a secure place until the bid opening (*see Bid Opening*). Following this procedure will allow the document to retain its status as a sealed bid.

Despite the instructions contained in the IFB, RFQ or RFP, a bidder/offeror will occasionally submit a sealed bid without proper identification and the following must be adhered to:

- ◆ Envelopes opened to determine the contents because they do not include the required documentation on the envelope must be resealed and marked with opener's initials and the statement "Opened to Determine Contents". The opener should document the date opened and time on the envelope. These bids will be deemed non-responsive.

If a bid is inadvertently opened, the following must be adhered to:

- ◆ Bids inadvertently opened must be resealed and marked with opener's initials and the statement "Opened in Error". These bids are eligible for consideration in the evaluation process.

Any bids received after the deadline cannot be considered and will be deemed non-responsive and will become part of the procurement file.

In the event that no responsive bids are received, Proprietary Purchases (Sole Source) procedure should be followed.

**Withdrawing Bids:** A bidder/offeror may withdraw their bid at any time prior to bid opening by presenting a request to withdraw on their letterhead. The bid withdrawal request on letterhead will become part of the procurement file.

Bids/offers may not be altered or amended after the submission deadline.

Any alteration or change made to a bid/offer prior to opening must be initialed by the authorized signatory guaranteeing authenticity.

### **Bid/Offer Log:**

The use of a log for bids/offers received is required (*see Attachment E*). At a minimum, the following information should be included in the Bid Receipt Log:

- ◆ Bidder/offeror Identification Number (if applicable)
- ◆ Bidder/offeror Name
- ◆ Date Bid/Offer Received
- ◆ Bid/Offer opening date/time
- ◆ Delivery Method (U.S. Mail, Hand Delivery, etc.)

### **Bid/Offer Opening:**

- ◆ Bid/offer opening should be made in a place open to the public.
- ◆ Bids/offers should be opened at the date and time that is stated in the request for bids.
- ◆ RFP'S shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals confidential during negotiations.
- ◆ If no member of the public attends, a staff member will act as a witness.

## ***BID/OFFER EVALUATION***

### **For RFPs:**

Evaluation factors for an RFP may include the following:

- ◆ Offer Price
- ◆ Experience in same or similar programs
- ◆ Demonstrated performance
- ◆ Likelihood of meeting performance goals, cost quality of training and characteristics of participants
- ◆ Ability to respond in a timely manner (service capacity and response time)
- ◆ Past recommendations and performance
- ◆ Safety record

- ◆ Financial stability and resources, including fiscal management capabilities and project budget
- ◆ Quality of services offered
- ◆ Operating characteristics
- ◆ Technical innovations
- ◆ Administrative capability
- ◆ Compatibility with ongoing programs
- ◆ A review of monitoring reports, goal attainment, and program outcomes
- ◆ EPLS Status
- ◆ Any other factors considered by SETRPC as necessary for the procurement
- ◆ State of Texas Debarred Vendor List
- ◆ Indicate HUB/MBE/DBE/WBE Status
- ◆ Verify Calculations / Totals
- ◆ Verify Authorized Signature
- ◆ Document Non-Responsive Items

#### For IFBs:

Evaluation factors for an IFB contract that is awarded on the basis of best value instead of lowest responsible bid may include the following:

- ◆ Bid price
- ◆ Reputation of the bidder and of the bidder's goods or services
- ◆ Quality of the bidder's goods or services
- ◆ The extent to which the goods or services meet SETRPC's needs
- ◆ Bidder's past relationship with SETRPC
- ◆ The impact on the ability of SETRPC to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities
- ◆ Total long-term cost to SETRPC to acquire the bidder's goods or services
- ◆ Any relevant criteria specifically listed in the IFB. These factors may include any of those listed as evaluation factors for an RFP.

### ***BID/OFFER SCORING***

Review the bid/offer for completeness, including but not limited to:

- ◆ Verifying all calculations and sums
- ◆ Extending unit prices to a total price for the requested quantity
- ◆ Verifying authorized signature

- ◆ Verifying responsiveness to solicitation specifications; any failures to meet the requirements should be noted, as well as whether such failures disqualify the bid/offer
- ◆ Verifying that all samples or testing requirements were satisfied
- ◆ Evaluating the bid/offer against the independent cost estimate or desired, ideal system
- ◆ Evaluating the offer against the weights assigned in the RFP or against the criteria used in an IFB when using the best value method
- ◆ Reviewing the history of the bidder's responsibility and demonstrated performance or safety (if specified as a factor for consideration in the IFB and SETRPC has adopted a written definition and criteria for accurately determining the safety record of a bidder/offeror)

The RFP evaluation process must:

- ◆ Include a rating method containing:
  - A value for price reasonableness
  - Criteria for judging price reasonableness
  - Past Performance as quantifiable and criteria-referenced element
- ◆ Aggregate individual scores; final awards shall be consistent with dollar value, numerical ratings and category in accordance with the RFP's stated intentions
- ◆ Offers must be rated individually by the Department Director or designee
- ◆ Document any and all inconsistencies; scoring sheets shall be completed, signed and dated by the reviewing parties and shall be maintained as part of the procurement record
- ◆ Contain minimum standards (such as administrative and organizational qualifications, fiscal system standards, performance and outcome expectations, adherence to time frames, etc.) for considering a response and components which would constitute disqualification, including failure to meet minimum threshold requirements
- ◆ Contain signed statements certifying that the individual signing on behalf of the organization has the authority to submit the offer and carry out the proposed services.

#### RFPs Only - Negotiations with Responsible Offerors:

- ◆ Negotiations (written/oral) shall be conducted with all responsible, responsive offerors deemed to have a reasonable chance of being selected for award.
  - The competitive range is determined by a technical evaluation of offers received based upon the evaluation factors
  - The review and rating of offers must be consistently applied to assure equal treatment and arms-length transaction
  - Data collected in the cost reasonableness review should be used to outline strengths and weaknesses of the proposed budget
  - All changes resulting from negotiation should be documented
- ◆ Types of contracts: cost reimbursement, fixed-unit price and fixed-unit price/performance based contracts



- ◆ Award the contract to the offeror whose offer is determined to be the most advantageous to SETRPC, considering the relative importance of price and the other evaluation factors set forth in the RFP
- ◆ Notify all unsuccessful offerors of the award in writing

## ***BID/OFFER DOCUMENTATION***

The procurement file documentation should include, but not be limited to:

- ◆ Notes relative to procurement process
- ◆ IFB/RFP/RFP as appropriate
- ◆ Copies of ads in required publications
- ◆ Complete bid responses, including proof of delivery
- ◆ Bidder/offeror affirmations
- ◆ EPLS documentation
- ◆ Bid tabulation
- ◆ Bid evaluation / scoring
- ◆ Signed copies of the purchase order, if applicable
- ◆ Copy of notification of award
- ◆ Delivery terms
- ◆ Other documentation relevant to determining the best value (or demonstrated qualifications for professional and consulting services) for SETRPC in the context of this particular purchase

## ***RESOLUTION OF PROTESTED PROCUREMENTS***

### **Procedure:**

- ◆ Any actual or prospective Bidder/Offeror who is aggrieved in connection with a purchase transaction may file a grievance. The grievance may be filed at any phase of the procurement.
- ◆ In order for an above mentioned party to enter the grievance process, a written complaint must be sent to the procurement contact person by certified mail within seven calendar days which identifies the following:
  - Name, mailing address and business phone number of the complaint.
  - Appropriate identification of the procurement being questioned.
  - A precise statement of reasons for the protest.
  - Supporting exhibits, evidence or documents to substantiate any claims

The grievance must be based on an alleged violation of SETRPC's Procurement Procedures, a violation of State or Federal law (if applicable), or contract agreements to which SETRPC is a party. Failure to receive a procurement award from SETRPC in and of itself does not constitute a valid grievance. Upon receipt of a grievance, the procurement contact person will initiate the expedited resolution process.

## **Expedited Resolution:**

The Department Director responsible for the solicitation shall contact the complainant and all interested parties and attempt to resolve the allegations informally within ten (10) working days from date of complaint. If the allegations are successfully resolved by mutual agreement, documentation will be placed in the procurement file explaining the resolution with specifics on each point addressed in the original complaint.

If the Department Director or designee is not successful in resolving the allegations, the complaint along with the comments will be forwarded to the Executive Director immediately. The Executive Director will assign an impartial third party (mediator) to review all documentation. All interested parties will be given written notice of the date, time, and place of the hearing and an opportunity to present evidence. A written decision will be issued within five (5) working days after the hearing along with a notice of appeal rights.

## **Appeals:**

The complainant may appeal the mediator's decision by submitting a written appeal within five (5) working days, to the Executive Director of SETRPC. The Executive Director, upon receipt of a written notice of appeal, shall contact the complainant and schedule a second hearing within ten (10) working days.

The decision reached by the Executive Director in the second hearing shall be final. This decision will be forwarded to the complainant in writing within thirty (30) working days.

Appeals of SETRPC decisions to a grantor agency are limited to violations of federal law or regulations and the standards of Section .36 of the Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments; and violations of SETRPC's protest procedures for failure to review a complaint or protest.

## **CONTRACT AWARD**

The Department Director or designee shall:

- ◆ Obtain appropriate approval authority and award the contract or bidder/offeror agreement to the responsive bidder/offeror who provides the best value or lowest price (or demonstrated qualifications for professional services); or
- ◆ Reject all bids and publish a new notice if warranted; or
- ◆ Issue a contract, bidder/offeror agreement or purchase order and send signed copies of same to the bidder/offeror and the Department Director or designee.

**NOTE:** *Formal Procurement awards must be in contract form.*

## **MODIFICATION AND CHANGE ORDERS**

Definitions:

- ◆ "Change Order" is a written order signed by the buyer, directing the contractor to make changes.
- ◆ "Modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, quantity, or other provisions of the contract as well as any associated price adjustments, accomplished by mutual action of the parties to the contract.

If changes in plans or specifications are necessary after the performance of the contract has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment or supplies to be furnished, SETRPC may approve change orders or modifications to make the changes. All changes or modifications to the contract must adhere to the following guidelines:

- ◆ The total contract price may not be increased because of the change order or modification unless additional money for increased costs is appropriated for that purpose from available funds.
- ◆ If a change order or modification involves a decrease or an increase of \$50,000 or less, SETRPC's Executive Committee may delegate general authority to the Executive Director or designee to approve the change orders.
- ◆ The original contract price may not be increased by a change order or modification under Section 252.048, Local Government Code, by more than 25%. The original contract price may not be decreased by change orders by more than 25% without the consent of the contractor.

Requirements to Re-compete:

- ◆ SETRPC must re-compete where the modification results in the procurement of supplies, equipment or services that:
  - are substantially and materially different from that for which competition was held;
  - result in a change in the terms or conditions of a contract that interferes with or defeats the purpose of competitive procurement; or
  - is equivalent to an unjustified sole source procurement

Improper Justifications for Modification:

- ◆ on-site contractor, familiar with existing conditions provides greater assurance of satisfying the agency's needs: or
- ◆ making an award with the intent to change contract specifications by a subsequent modification

## ***RECORDS RETENTION***

All records should be maintained in accordance with statutory requirements and in accordance with the requirements of any applicable grant. Grants should be reviewed for applicable period of retention for each specific contract. At a minimum, records should be maintained in accordance with the records retention schedule adopted by SETRPC.

## ***CODE OF ETHICS AND CONFLICT OF INTEREST***

### **Standard of Conduct**

House Bill 914, codified as Chapter 176 of the Local Government Code, created conflict disclosure filing requirements for elected officials and chief executive officers of Texas political subdivisions, including regional councils. There are also disclosure requirements for those seeking to do business with SETRPC.

- ◆ SETRPC officers and the Executive Director are required to file a conflicts disclosure statement when the official becomes aware that SETRPC has a contractual or business relationship or is considering such a relationship and:
  - The person has business or employment relationship with the official; or
  - The person has a business or employment relationship with a family member of the official, within the first degree of consanguinity; or

- The person has given the official or the official's family a gift, excluding food, lodging, transportation or entertainment, with an aggregate value of \$250 or more within the preceding twelve months.
- All bidders/offers contracting or seeking to contract with SETRPC for the sale or purchase of property, goods, or services must file a conflict of interest questionnaire with SETRPC within seven days of submitting (a) bid, RFP, proposal or other document relating to a potential agreement with SETRPC or (b) entering into contract negotiations with SETRPC.
- The following is the required specification/proposal language
  - HB 914 Conflict of Interest Questionnaire:  
Texas House Bill 914, codified as Chapter 176 of the Local Government Code, requires bidders/offers contracting or seeking to do business with SETRPC to file a conflict of interest questionnaire (CIQ). The required questionnaire is located at the Texas Ethics Commission website <http://www.ethics.state.tx.us/forms/CIQ.pdf> and a copy is included with this bid/proposal request. A list of SETRPC officers subject to HB 914 disclosure requirements may be found on SETRPC'S website <http://www.setrpc.org>
  - The CIQ must be completed and filed with the bid/proposal response. Vendors and consultants that do not include the form with the response, and fail to timely provide it, may be disqualified from consideration by SETRPC.
  - The CIQ must be placed in the procurement file and a copy provided to the accounts payable department
  - Knowing violation of this law is a Class C misdemeanor. Filing of the required disclosure no later than the seventh day after receiving notice of violation is a defense to prosecution.

A SETRPC Department Director or designee delegated with purchasing authority may not:

- Participate in work on a potential contract by taking action as an employee through decision, approval, disapproval, recommendation, investigation or similar action knowing that the employee or member of their immediate family has an actual or potential financial interest in the contract, including prospective employment
- Participate in procurement if a conflict of interest, either real or apparent, would be involved. An officer or employee of SETRPC shall at all times avoid the appearance of impropriety
- A conflict arises when a SETRPC officer or employee or any member of his/her immediate family, a partner or a person or an organization which employs or may employ in the near future any of these individuals, has a financial or other substantial interest in any entity which may be considered for the award
  - "Immediate family" means to refer to any person related within the second degree of affinity (marriage) or within the third degree of consanguinity (kinship) to the party involved (*see Attachment H*)
  - "Substantial interest" for purposes of this section, means the person who
    - Owns 10% or more of the voting stock or shares of the entity
    - Owns 10% or more or \$5,000 or more of the fair market value of the entity
    - Received funds from the entity in excess of 10% of the person's gross income for the previous year

- Is related to an employee or agent in the first degree of consanguinity or affinity
- ◆ No officer or employee of SETRPC shall demand, agree, accept or solicit anything of substantial value from potential bidders/offers. No bidder/offeror shall offer or tender anything of substantial value to any officer or employee of SETRPC
- ◆ Be employed by, or agree to work for, a potential bidder/offeror
- ◆ Knowingly disclose confidential information for personal gain

### If a Conflict Occurs:

When an actual or potential violation of any of these standards is discovered, the person involved shall promptly submit a written statement concerning the matter to their Department Director. In the event of a real or apparent conflict of interest, the affected officer or employee shall adhere to the following procedures:

- ◆ Sign a statement of a possible conflict of interest to be placed in the procurement file
  - A declaration must also be made on the record where
    - the agent, employee or immediate family member serves as a board member for bidder/offeror;
    - the agent or employee is voting on an indirect affirmation of a contract relationship;
    - the agent or employee is voting on a rival bid/offer, though there is no direct competition
- ◆ If applicable, abstain from voting on any procurement action
  - where the employee or agent directly represents an organization or may receive a direct financial benefit; or
  - where the employee or agent is in direct competition with a bid/offer which would provide a direct financial benefit
- ◆ Abstain from participating in the procurement process, which includes but is not limited to discussions, lobbying, rating, scoring, recommending, explaining or assisting in the design or approval of the procurement process:
  - on contracts with the organization he/she represents or from which he/she receives a direct financial benefit; or
  - on contracts with organizations which a family member might realize a direct financial benefit

### If a Violation Occurs

- ◆ If an actual violation occurs or is not disclosed and remedied, the employee will be subjected to any and all penalties prescribed by law
- ◆ Penalties, sanctions or other disciplinary actions, to the extent permitted by state or local law, rules or regulations, shall be imposed for violations of the code of conduct/conflict of interest standards, by SETRPC employees or agents or by persons, contractors or their agents, when the procurement involves state or federal programs and /or funds.
- ◆ Appropriate sanctions, penalties or disciplinary actions shall be applied for violation. Violations of state or federal law shall be referred to the proper authority having jurisdiction over same.

## SETRPC PROCUREMENT POLICY CONFLICT OF INTEREST STATEMENT

As a SETRPC Department Director or designee with purchasing authority, I do not have an interest in, nor am I in any manner connected with a contract or bid for a purchase of goods or services by SETRPC. Any SETRPC Department Director or designee with purchasing authority who interacts with public purchasers in any capacity shall adhere to the requirements established in the Procurement Policy which outlines the ethical standards required of SETRPC Department Director or designee with purchasing authority, and bidders who interact with SETRPC employees in the conduct of SETRPC business. Entities who are interested in seeking business opportunities with SETRPC must be mindful of these restrictions when interacting with SETRPC Department Director or designee with purchasing authority.

I certify that I have read and understand the above statement.

---

Department Director or Designee Signature

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Printed Name

---

Date

Original filed in Employee Personnel File

## **RELATED ITEMS**

### **System for Award Management (SAM):**

Contractors and sub-contractors must not be debarred, suspended, or ineligible (according to the U.S. System for Award Management (SAM)) from Federal Procurement or Non-Procurement Programs.

Prior to awarding any contract, bidder/offeror agreement or issuing any purchase order to a new bidder/offeror the SAM must be reviewed and a printout noting the bidder/offeror is not in the SAM database should be included in the procurement file. For first time bidders/offerors, a copy of the SAM search printout must be submitted to accounts payable. Without the SAM verification, an account cannot be established for the awarded bidder/offeror.

[Entity Information | SAM.gov](#)

### **State of Texas Debarred Vendor List:**

Prior to awarding any contract, bidder/offeror agreement or issuing any purchase order to a new bidder/offeror the State of Texas Debarred Vendor List must be reviewed and a printout noting the bidder/offeror is not in the Debarred Vendor List database should be included in the procurement file. For first time bidders/offerors, a copy of the Debarred Vendor List must be submitted to accounts payable. Without the EPLS verification, an account cannot be established for the awarded bidder/offeror.

[Search For Vendors](#)

### **Historically Underutilized Business Program (HUB) and Other Programs:**

Every Department will make a good faith effort to utilize a HUB, Minority Business Enterprise (MBE), Disadvantage Business Enterprise (DBE) or Women's Business Enterprises (WBE) in contracts for all purchases.

SETRPC may consider HUB, MBE, DBE and WBE availability, utilization, geographical location of the project, the contractual scope of work, or other relevant factors.

In making expenditures of more than \$3,500 and less than \$50,000, SETRPC must contact at least two (2) HUBs on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the area, then SETRPC is exempt from this section.

### **Prohibition on Certain Telecommunications and Video Surveillance Equipment:**

SETRPC is prohibited from purchasing certain telecommunications and video surveillance services or equipment produced in Huawei Technologies or ZTE Corporations (or any subsidiaries) or by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

### **Domestic Preferences for Procurements (Build America, Buy America):**

SETRPC, to the greatest extent practicable and consistent with law, will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced and manufactured in the United States.

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MASTER CONTROL LIST (Contracts \$50,000+)					
	Control Number*	SETRPC Department Director or Designee Signature	Contract Amount	Bidder/Offeror Company Name	Bidder/Offeror Authorized Representative and/or Signatory
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
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24.					
25.					

**\*NOTE: Control Number begins with department’s letter assignment used for Payment Authorizations.**

(Reference Contract Control Number on all Payment Authorizations)

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**PROPRIETARY PURCHASE (SOLE SOURCE) JUSTIFICATION**

This form is to be completed for/when requesting proprietary/sole source purchase procurement for goods or services.  
If more space is needed, please attach additional page(s).

1. Name, manufacturer and model number of item(s) to be purchased:

2. Source of Purchase:

- ☐ The proprietary item(s) may be purchased from more than one source.
- ☐ The proprietary item(s) may ONLY be purchased from a sole source, which is the:
- ☐ Manufacturer
- ☐ Only authorized distributor for the area
- ☐ Other

3. State why the needs were not or could not be anticipated so that goods or services could not have been purchased following standard procedures:

4. State the reason and process used for selecting the vendor (attach all bids/offers received from other sources if applicable):

I certify that the above statements are true and correct, and that no other material fact or consideration offered or given has influenced this recommendation for an emergency purchase.

Print Name

Department

Signature of Department Director or Designee

Date

-----  
EXECUTIVE DIRECTOR APPROVAL

Signature

Date

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**EMERGENCY PURCHASE PROCUREMENT JUSTIFICATION**

This form is to be completed for/when requesting emergency purchase procurement for goods or services.  
If more space is needed, please attach additional page(s).

1. State the reason for the emergency purchase by explaining what the emergency is and what caused the emergency situation:

2. Specify the reasons that lead to the conclusion that financial or operational damage or risk of damage will occur if needs are not satisfied immediately (do not simply say that there will be damage or risk of damage):

3. State why the needs were not or could not be anticipated so that goods or services could not have been purchased following standard procedures:

4. State the reason and process used for selecting the vendor (attach all bids/offers received from other sources if applicable):

I certify that the above statements are true and correct, and that no other material fact or consideration offered or given has influenced this recommendation for an emergency purchase.

Print Name

Department

Signature of Department Director or Designee

Date

-----  
EXECUTIVE DIRECTOR APPROVAL

Signature

Date

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**BIDDER/OFFEROR CERTIFICATION****REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS AND GRANTS**

In this certification "contractor/grantee" refers to both contractor/grantee and subcontractor/sub-grantee; "contract/grant" refers to both contract/grant and subcontract/sub-grant. Each covered contractor/grantee must also screen each of its covered subcontractor/providers.

**By signing and submitting this certification, the potential contractor/grantee accepts the following terms:**

The certification herein below is a material representation of fact upon which reliance was placed when this contract/grant was entered into. If it is later determined that the potential contractor/grantee knowingly rendered an erroneous certification, the federal government may pursue available remedies, including suspension and/or debarment.

The potential contractor/grantee shall provide immediate written notice to the person to whom this certification is submitted if at any time the potential contractor/grantee learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The words "covered contract", "debarred", "suspended", "ineligible", "participant", "person", "principal", "proposal", and "voluntarily excluded" as used in this certification have meanings based upon the Definitions of Coverage sections of federal rules implementing Executive Order 12549.

The potential contractor/grantee agrees by submitting this certification that, should the proposed covered contract/grant be entered into, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by a federal department or agency as applicable.

**Do you have or do you anticipate having subcontractors/sub-grantees under this proposed contract?** YES \_\_\_\_\_ NO \_\_\_\_\_

The potential contractor/grantee further agrees by submitting this certification that it will include this certification without modification, in all covered subcontracts and in solicitations for all covered documents.

A contractor/grantee may rely upon a certification of a potential subcontractor/sub-grantee that it is not debarred, suspended, ineligible or voluntarily excluded from the covered contract/grant, unless it knows that the certification is erroneous. A contractor/grantee must, at a minimum, obtain certifications from its covered subcontractors/sub-grantees upon each subcontract's/sub-grantee's initiation and upon each renewal.

Nothing contained in all the foregoing shall be construed to require establishment of a system of records in order to make in good faith the certification required by this certification document. The knowledge and information of a contractor/grantee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for contracts/grants authorized under paragraph 4 of these terms, if a contractor/grantee in a covered contract/grant knowingly enters into a covered subcontract/sub-grant with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in the transaction, the federal government may pursue available remedies, including suspension and/or debarment as applicable.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS AND GRANTS**

Indicate which statement applies to the covered potential contract/grantee:



The potential contractor/grantee certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this contract/grant by any federal department or agency or by the State of Texas.



The potential contractor/grantee is unable to certify to one or more of the terms in this certification. In this instance, the potential contractor/grantee must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation (a) to this certification.

**NAME OF POTENTIAL CONTRACTOR / GRANTEE**

\_\_\_\_\_

**BIDDER/OFFEROR ID NO. / FEDERAL EMPLOYER'S ID NO.**

\_\_\_\_\_

**Signature of Authorized Representative**

**Printed/Typed Name of Authorized Representative**

**Date**

**Title of Authorized Representative**

**CERTIFICATION FOR FY:**

**START DATE:**

**END DATE:**





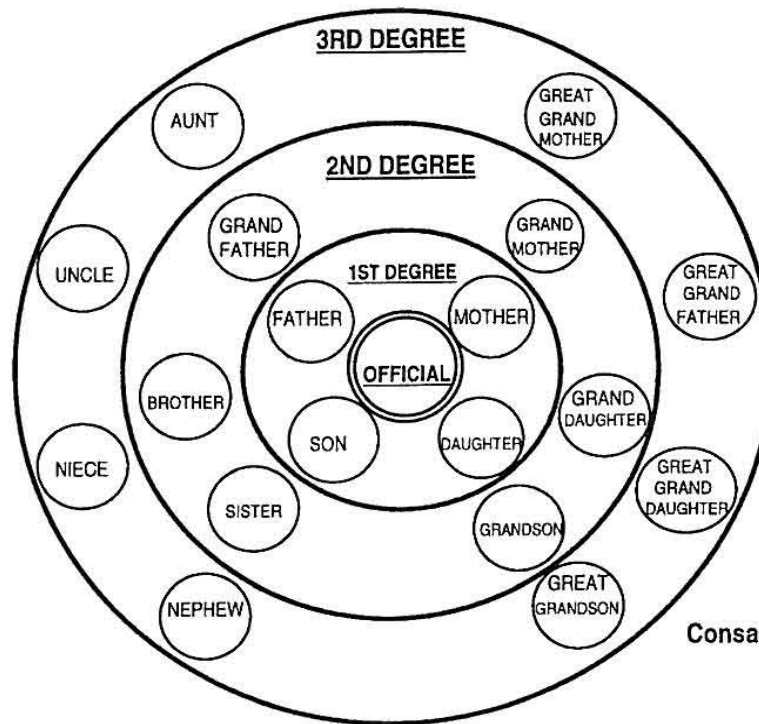
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**SAMPLE FORM****ATTACHMENT E****CONTRACT CONTROL NUMBER:****BID/OFFER RECEIVED LOG**

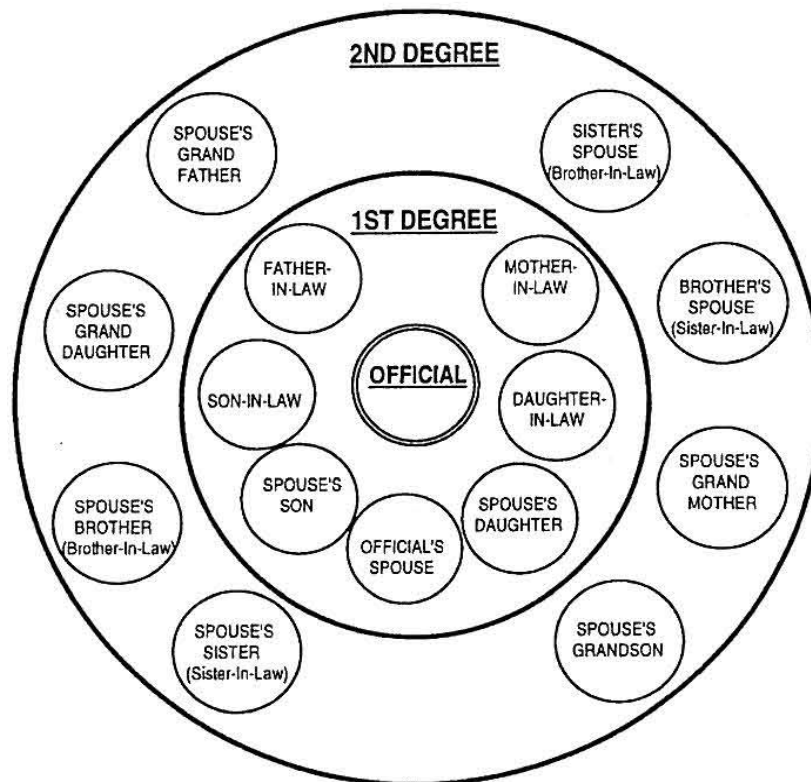
	Bidder/Offeror ID Number or Name	Date Bid Received	Bid Opening Date/Time	Delivery Method (US Mail, Hand Delivery, etc)	Receiver's Initials
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
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**\*NOTE: Department Director or designee will establish a bidder/offeror Identification system for their division.**

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Consanguinity Kinship Chart  
(Blood)



Affinity Kinship Chart  
(Marriage)

\*Spouses or relatives with the first degree of consanguinity (e.g., son-in-law, mother-in-law, brother-in-law, sister-in-law, etc.) are also included in the prohibition.  
(Legal Reference: Texas Govt §Code 573.)

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A RESOLUTION BY THE EXECUTIVE COMMITTEE OF THE  
SOUTH EAST TEXAS REGIONAL PLANNING COMMISSION (SETRPC)  
AUTHORIZING ACCEPTANCE OF THE 2011 SETRPC PROCUREMENT POLICY

WHEREAS, the 2011 SETRPC Procurement Policy will serve as the guide for all SETRPC purchases; and

WHEREAS, it contains standard procedures and parameters for procuring goods and services under applicable state and federal guidelines; and

WHEREAS, These policies and procedures are intended to comply with the general requirements of Chapter 252 of Local Government Code as well as 45 CFR 92 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments (formerly OMB Circular A-102), 2 CFR 225 - Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87), and the Texas Uniform Grant and Contract Management Standards (UGMS); and

WHEREAS, at no time are these policies intended to modify, conflict, or be more stringent than the laws or rules and regulations of the United States, the State of Texas or the policies of any Federal or State grantor agency from which SETRPC receives specific funds; and

WHEREAS, the objectives of the policies and procedures are to assist SETRPC staff by defining general and specific decisions; and

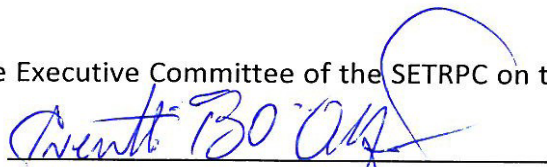
WHEREAS, this policy provides consistency in the procurement practices of SETRPC with regard to applicable procurement laws; and

WHEREAS, this policy provides guidelines to utilize federal, state and local funds in the most efficient and effective manner as practical; and


NOW, THEREFORE BE IT RESOLVED:

That the Executive Committee of the SETRPC approves the 2011 SETRPC Procurement Policy as presented.

That this Resolution is endorsed and passed by the Executive Committee of the SETRPC on this day, **Wednesday, March 16, 2011.**

  
Everett "Bo" Alfred, President, SETRPC  
Commissioner, Jefferson County

ATTEST:

  
Kirk Roccaforte, Secretary, SETRPC  
Mayor, City of Bridge City

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Adopted by the SETRPC Executive  
Committee  
November 19, 2025