

Model Policies & Procedures Applicable to Federal Awards as Required by 2 CFR 200

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I. CASH MANAGEMENT FOR FEDERAL FUNDS

The St. Clair County Commission will minimize the time between the receipt of federal funds or other pass through entity, and the disbursement of those federal funds. Federal funds will only be requested to meet immediate cash needs for reimbursement not covered by prior receipts and anticipated disbursements that are generally fixed, such as monthly program salaries and benefits. Disbursements will be made within thirty calendar days after receipt of funds.

The County will maintain financial records that account for the receipt, obligation, and expenditure of each federal program fund. Cash balances for each federal program funds and for the aggregate of all federal program funds will be monitored.

County procedures to minimize the cash balances in federal program funds are expected to prevent the aggregate cash balances of federal program funds from earning \$500 or more for the fiscal year if maintained in interest-bearing accounts. The federal program funds will not be maintained in an interest-bearing bank account if the County determines that banking requirements for minimum or average balances are so high that an interest-bearing account would not be feasible. Federal program funds will be maintained in insured checking accounts that are subject to the state requirements for public deposits in the SAFE program.

Reference: 2 CFR § 200.305 and 2 CFR § 200.302(b)(6).

II. DETERMINATION OF ALLOWABLE COSTS

Before instituting a financial transaction that will require the expenditure of federal funds the County will determine that the proposed transaction meets the requirements for allowable costs for the federal program. Actions to determine allowable costs will assure that:

- A. The proposed expenditure is included in the federal program budget;
- B. The proposed expenditure is reasonable and necessary for the federal program;
- C. The proposed expenditure is consistent with procedures for financial transactions of the County including:
 1. Purchase order approval procedures;
 2. Contract review and approval procedures;
 3. Applicable competitive purchasing procedures and;
 4. Documentation supports allowability of transaction.

Before payments are made from federal funds the federal program director and the County will determine that the federal program expenditure complies with general accepted accounting principles and complies with state, local, and federal laws, rules, and regulations.

Reference: 2 CFR § 200.302(b)(7), 2 CFR § 200.403, and other requirements under 2 CFR §200.302.

III. TRAVEL POLICY

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by county employees who are in travel status on official business of the County. The County's travel policy provides for reimbursement and payments for travel costs of employees paid from federal funds that is consistent with the travel costs for county employees paid from state or local funds.

See Policy #2 adopted September 14, 1999.

Reference: 2 CFR §200.474.

IV. PROCUREMENT POLICY

As used herein, the term "procurement" means the purchase of services, and the purchase or lease of goods, by the expenditure or anticipated expenditure of federal or state grant funds. "Grant funds," "grant monies," or "federal awards" mean funds received through federal and state grants, whether those funds come directly from a federal or state agency or from a pass-through entity.

This policy applies to all contracts, purchase orders and expenditures of federal awards for the procurement of labor, goods and services. Its purpose is to establish efficient and economical procurement procedures.

The applicable law for this policy includes the federal procurement standards set out at 2 CFR § 200.318 through § 200.326; the state competitive bid law applicable to the purchase or lease of goods and services found at § 40-16-50, et seq., Code of Alabama (1975), as amended; and the state competitive bid law applicable to construction and improvement of public works found at Ala. Code § 39-2-1, et seq. Code of Alabama (1975), as amended, are applicable to procurements hereunder. The Alabama Ethics Law found at § 36-25-1, et seq., Code of Alabama (1975), as amended, including its conflict of interest provisions, is applicable to county officials and employees. **To the extent of conflict between the requirements of this policy and federal or state requirements, the stricter of the two shall apply.** Individual federal awards may contain further requirements unique to those federal awards and in addition to the requirements of this policy.

A. CONFLICT OF INTEREST POLICY

Generally, a conflict of interest exists when a county official or county employee participates in a matter that is likely to have a direct effect on his or her personal and financial interests. A financial interest may include, but is not limited to, stock ownership, partnership, trustee relationship, employment, potential employment, or a business relationship with an applicant, vendor, or entity. A county official or county employee may not participate in his or her official capacity in a matter that is likely to have direct and predictable effects on his or her financial interests.

Each county official or county employee will abide by the Federal and state laws and regulations that address conflict of interest standards. In general, the Federal rules provide that:

No employee, officer, or agent of the board shall participate in selection, or in the award or administration of a contract supported by Federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from the firm considered for a contract. The board's officers, employees, or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts.

The county's conflict of interest policies include adherence to the Alabama Ethics Law, which defines conflict of interest as:

A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.

A county official or county employee may not review applications, proposals, or participate in the evaluation or selection process where his or her participation in the review process would create the appearance that he or she is: (a) giving preferential treatment; (b) losing independence and impartiality; (c) making decisions outside official and appropriate channels; or (d) harming the public's confidence in the integrity of the county.

Situations and circumstances presenting an actual conflict or the appearance of a conflict should be brought to the immediate attention of the chairman. A county official or county employee who has knowledge of a possible conflict of interest should identify the conflict and notify the chairman. The chairman will document his or her actions related to the reported conflict of interest. Resolution can consist of disqualification, recusal, waiver, or other

appropriate measures. Appropriate measures may include reporting a conflict of interest to the Alabama Ethics Commission, the Alabama Attorney General, or the appropriate federal agency.

Reference: 2 CFR §200.112, Ala. Code Section 36-25-1 et seq.

B. GENERAL PROCUREMENT STANDARDS

1. St. Clair County will comply with the procurement procedures found in Ala. Code § 41-16-50 et seq. and Ala. Code § 39-2-1 et seq.
2. Oversight must be maintained to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. The acquisition of unnecessary or duplicative items must be avoided. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis must be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
4. Entry into state and local intergovernmental agreements or inter-entity agreements, where appropriate, for procurement or use of common or shared goods and services is encouraged.
5. Use of federal excess and surplus property in lieu of purchasing new equipment and property when such use is feasible and will reduce project costs is encouraged.
6. Use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions is encouraged. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
7. Contracts shall be awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, suspension or debarment, and financial and technical resources.
8. Records must be maintained sufficient to detail the history of each procurement. Such records are to include, but not necessarily be limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
9. (a) A time and materials type contract may be used only after a determination that no other contract is suitable. The contract must include a ceiling price that the contractor exceeds at its own risk. A high degree of oversight must be asserted in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(b) Time and materials type contract means a contract whose cost to the County is the sum of:

(i) The actual cost of materials; and

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

10. The County alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the County of any contractual responsibilities under its contracts.

Reference: 2 CFR § 200.318.

C. COMPETITION

1. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards set out in 2 CFR §§ 200.317 - 200.326. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Situations considered to be restrictive of competition include, but are not limited to:

- a. Placing unreasonable requirements on firms in order for them to qualify to do business;
- b. Requiring unnecessary experience and excessive bonding;
- c. Noncompetitive pricing practices between firms or between affiliated companies;
- d. Noncompetitive contracts to consultants that are on retainer contracts;
- e. Organizational conflicts of interest;
- f. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- g. Any arbitrary action in the procurement process.

2. Procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

3. All solicitations must:
 - a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - b. Identify all requirements which must be fulfilled and all other factors to be used in evaluating bids or proposals.
4. Prequalified lists of persons, firms, or products which are used in acquiring goods and services must be current and include sufficient qualified sources to ensure maximum open and free competition. Potential bidders may not be precluded from qualifying during the solicitation period.

Reference: 2 CFR § 200.319.

D. METHODS OF PROCUREMENT TO BE FOLLOWED

The procurement of all labor, materials and services must conform to one of the following methods:

1. Procurement by micro-purchases: Procurement of materials, supplies, or services, the aggregate dollar amount of which does not exceed \$3,000.00 (this threshold is periodically adjusted for inflation) may be awarded without soliciting competitive quotes if the price is deemed to be reasonable. To the extent practicable, such awards must be distributed equitably among qualified suppliers.
2. Procurement by small purchase procedures: Procurement involving materials, supplies, or services with an aggregate cost which is more than \$3,000.00 but less than \$15,000 (or that amount set out in Section 41-16-50(a), Code of Alabama (1975), as amended, as the same may be amended from time to time), price or rate quotations will be obtained, whenever possible, from not less than three (3) vendors. Quotations may be secured via fax, email, telephone or otherwise. All solicitation efforts and quotations must be documented in the file.
3. Procurement by sealed bids (formal advertising): Procurement involving materials, supplies, or services with an aggregate cost which is more than \$15,000 (including public works projects) shall utilize a bid process which bids are publicly solicited for a firm fixed price contract (lump sum or unit price) and are awarded to the responsible bidder whose bid,

conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply:

a. In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

b. If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
- (ii) Invitations for bids must be publicly advertised in accordance with state law;
- (iii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iv) All bids must be publicly opened at the time and place prescribed in the invitation for bids;
- (v) A firm fixed price contract award must (except where all bids are rejected) be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (vi) Any or all bids may be rejected if there is a sound documented reason.

Reference: 2 CFR §200.320.

E. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTITIES, AND LABOR SURPLUS AREA FIRMS

1. All necessary affirmative steps must be taken to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Reference: 2 CFR § 200.321.

F. CONTRACT COST AND PRICE

1. A cost or price analysis must be performed in connection with every procurement action in excess of the current Simplified Acquisition Threshold including contract modifications. The method and degree of analysis will depend on the facts surrounding the particular procurement situation, but as a starting point, independent estimates must be made before receiving bids or proposals.
2. Profit must be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. Consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the County entity under 2 CFR Subpart E-Cost Principles.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Reference: 2 CFR § 200.323.

G. BONDING REQUIREMENTS

The county requires bonds as set out in § 40-16-50, et seq., and § 39-2-1, et seq., Code of Alabama (1975), as amended.

- The county has determined that the Federal interest is adequately protected by the state law bonding requirements.

Reference 2 CFR § 200.325.

H. COMPENSATION – PERSONAL SERVICES

The county requires documentation to accurately reflect the work performed by any employee whose personnel costs are charged to Federal awards. Each such employee shall submit a timesheet that is signed by the employee and his/her supervisor. The employee and supervisor shall certify that the time being charged to the Federal award is accurate, allowable, and properly allocated.

The timesheet shall reasonably reflect the employee's total activity for the payperiod, including any activity that is not Federally funded. The Federally-funded activity may be reflected as time or percentage of the workday. The timesheet shall in all other respects comply with the county's established accounting practices and procedures.

Reference 2 CFR § 200.430.

I. COMPENSATION – FRINGE BENEFITS

Where appropriate, the county may charge the costs of fringe benefits to federal awards provided that such fringe benefits are provided through an established policy of the county. Under no circumstances will the county charge to a federal award automobile costs for automobiles furnished by the county to an employee.

Include this paragraph ONLY if the county has a written leave policy which can be cited:

Leave shall be charged only if it is provided pursuant to the county's written leave policy found at [*insert reference to leave policy*]; the costs are equitably allocated to all related activities; and the accounting basis selected for costing each type of leave is consistently followed by the county.

Include this paragraph ONLY if the county has a written employer contribution policy which can be cited:

Other fringe benefits in the form of employer contributions or expenses for Social Security; employee life, health, unemployment, and worker's compensation insurance; pension plan costs; and other similar benefits are allowable only if provided pursuant to the county's written employer contribution policy found at *[insert reference to fringe benefit policy]*; the costs are equitably allocated to all related activities; and the accounting basis selected for costing each type of leave is consistently followed by the county.

Reference 2 CFR § 200.431.

J. CONTRACT PROVISIONS

Contracts must contain the applicable provisions described in Appendix II to Part 200-
Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Reference: 2 CFR § 200.326.

V. RELATION TO OTHER COUNTY POLICIES

This policy supplements and does not supplant any and all procurement policies of the County including but not limited to those of the County Public Transportation Department.