



CITY OF DEER PARK, TEXAS

PURCHASING POLICIES AND PROCEDURES

Amended and Adopted November 4, 2025

Table of Contents

Section 1.	Purpose	3
Section 2.	Definitions	3
Section 3.	The Purchasing Function	3
Section 4.	Purchasing Procedures	4
Section 5.	Price Quotations and Purchase Awards	5
Section 6.	Competitive Bidding/Proposals Required/Awards Approved By City Council	7
Section 7.	Procurement of Professional Services	12
Section 8.	Bid Specification Procedures	13
Section 9.	Identical Bids	13
Section 10.	Bid Tabulation and Award	14
Section 11.	Purchasing Ethics and Conflicts of Interest	14
Section 12.	Procurement Cards	16
Section 13.	Bid Lists	17
Section 14.	Receipt and Inspection of Merchandise	17
Section 15.	Construction & Engineering/Architectural Consultant Contract Routing Forms	17
Section 16.	Payment Procession	17
Section 17.	Boycotting Israel	18
Section 18.	Procurement with Federal Funds	18
Section 19.	City Council	18
Exhibit A.	Policies and Procedures for Procurement with Federal Funds	A-1

SECTION 1. PURPOSE.

- A) The purpose of this policy is to establish procedures and guidelines for procurement of supplies, materials, and services for the City of Deer Park, Texas (City).
- B) This policy shall further establish guidelines in order to provide the citizens and taxpayers of the City assurance that the best uses of the available resources of the City are being realized. Further, this policy is intended to promote competition among the bidders and vendors interested in providing products or services to the City.
- C) The statutory authority for these policies and procedures shall be the Local Government Code (the Code), V.C.T.A., Section 252, and other State of Texas statutes referenced herein, the Deer Park City Charter Sec. 6.10 and other applicable policies and procedures.

SECTION 2. DEFINITIONS.

As used in this policy, the following terms and definitions shall apply:

- A) "Purchases" shall mean the procurement of supplies, materials, and services by and for the City;
- B) "Vendor" shall mean a supplier of materials or services to the City;
- C) "User Department" shall mean a department or agency of the City;
- D) "High Technology Procurement" shall mean the procurement of equipment, goods, or services of a highly technical nature, including:
 - 1) data processing equipment and software and firmware used in conjunction with data processing equipment;
 - 2) telecommunications equipment and radio and microwave systems;
 - 3) electronic distributed control systems, including building energy management systems; and
 - 4) technical services related to those items.
- E) "City Manager" shall mean the City Manager of the City of Deer Park, or his authorized designee;
- F) "Public work contract" shall mean a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.
- G) Gender. Unless otherwise specified, the use of the masculine pronouns, he, him, or his shall refer to both male and female gender.

SECTION 3. THE PURCHASING FUNCTION.

- A) The basic function of a municipal purchasing system is to support and enhance the delivery of City services. The optimum performance of this function requires that the purchasing system continually provide the departments of the City the proper quality as well as quantity of requested commodities within an acceptable time frame at the lowest cost.
- B) The City currently utilizes the concept of decentralized purchasing, rather than centralized purchasing. In a decentralized purchasing system, each user department shall be responsible for following these established procedures. A centralized purchasing system, in contrast, is a system where all purchase

requests are processed through a centralized purchasing office, with the central office responsible for purchasing and procurement.

SECTION 4. PURCHASING PROCEDURES.

Supplies or materials that are not available at any central warehouse of the City shall be purchased by following the procedures outlined in this policy. Further, replenishment of supplies at any central warehouse of the City shall also be purchased by following these procedures. Available and sufficient funding in the user department's budgetary authority shall be the basis for all purchases. No purchase shall be processed without the availability of funds, except upon written authorization from the City Manager or the City Council. All expenditures including, purchases, rentals, maintenance/contract agreements or any transaction that binds the City financially must be preceded by the issuance of a requisition and purchase order number, prior to the order being placed with the vendor. Certain exceptions may be allowed as authorized by the City Manager and Director of Finance to include items such as utility bills, payroll, TMRS, Contributions, Payments to Deferred Compensation Plans, and Accrued Employee Benefits, payments to the federal government or its agencies, transfer payments of employee deductions or garnishments, health insurance claims and fees, other insurance premiums, remittance to the State of Texas, procurement card remittance, scheduled bond or lease payments, and certain types of contracts for labor or instructors (such as sports referees or recreational program instructors).

A) Requisitions and Purchase Orders Procedures.

- 1) The user department shall generate a requisition which must be approved by the Department Director. After approved, purchase orders shall be generated and provided to the purchasing department. The purchasing department shall forward the approved purchase order to the end user department or shall order the goods or services at the end user's request.
- 2) No purchase shall be made until such time as a purchase order is generated and a purchase order number is issued.
- 3) Invoices applied to the purchase order shall be turned in to the purchasing office with a hard copy of the purchase order as the cover sheet. All purchase orders turned in for payment must be signed by the Department Director or their assigned temporary designee.
- 4) Any additional items added to a purchase order after it has been generated (change orders) must be approved by the Department Director.

B) Approval of Purchases.

- 1) Purchases less than \$25,000 for all purchases shall be approved by the Department Director of the user department after obtaining quotes as described in Section 5 of this policy.
- 2) Purchases of \$25,000 - \$49,999 shall be approved by the City Manager and the Department Director of the User Department after receiving quotes as described in Section 5 of this policy.
- 3) Purchases in excess of \$ \$50,000 shall be awarded only by City Council, or as otherwise prescribed in this policy.
- 4) A Department Director may assign a designee to approve purchases in the event of a prolonged absence. The Director must notify the purchasing department in writing the name of the designee and the duration of time they are authorized to approve purchases.

C) Emergency Purchases.

- 1) Emergency purchases less than \$50,000 shall be permitted under this policy. During periods of an emergency, discretion is provided to the Department Director for authority to purchase supplies or materials in an emergency situation. Emergency purchases shall not relieve the user department from following normal purchasing procedures and guidelines as outlined in this policy. The Department Director shall follow up as soon as practicable after the emergency purchase in submitting the Purchasing Approval Form.
- 2) Emergency purchases in excess of \$50,000 which are made without solicitation of competitive bids, shall be permitted under this policy, in accordance with Local Government Code V.T.C.A., Section 252.022, as amended. Whenever possible, in advance of issuing a purchase order/contract for an emergency purchase in excess of \$50,000, the City will endeavor to call an emergency city council meeting for council to authorize the emergency purchase. When this is not possible due to the nature of the emergency, City Staff will prepare an agenda item for a subsequent City Council meeting to seek Council ratification of the emergency purchase. The reason for the waiver of the competitive bid/proposal requirements must be cited, in writing, using the appropriate section of the Code shall be provided to City Council.
- 3) During events of natural disaster or declared emergency, the City shall communicate guidance for protocol. Immediately upon event declaration, all purchases shall comply with Exhibit A of this policy: Procurement Policies and Procedures for Procurement with Federal Funds.
- 4) No employee of the City shall have the authority to enter into a contract for purchase of goods or merchandise without first following the procedures put into place by this policy, except for emergency purchases as defined in this policy. In the event of an emergency purchase, the employee shall be responsible for full compliance of the policies relating to emergency purchases, as defined in this policy.

SECTION 5. PRICE QUOTATIONS AND PURCHASE AWARDS

A) Purchases Not Subject to Competitive Bidding less than \$5,000.

In order to obtain the best merchandise at the least possible cost to the City in a timely manner, the following procedures shall be utilized:

- 1) Competitive pricing by vendors shall be encouraged in order to obtain the best merchandise at the least possible cost;
- 2) Quantity discounts shall be utilized in order to obtain the least possible cost per unit for the purchases made by the City; and Purchases may be ordered directly by the user department after receiving verbal quotations from vendors. It shall be the responsibility of the user department to generate a requisition and a purchase order for the purchase.

B) Purchases Not Subject to Competitive Bidding between \$5,000 and \$49,999.

- 1) User departments shall endeavor to obtain competitive price quotations from vendors. The guidelines of this policy require that the user department obtain at least three (3) price quotations from vendors for all purchases in excess of \$5,000.

- 2) Purchases made through a cooperative purchasing program does not require three (3) written quotes as these vendor contracts have already met the requirements of the state law, provided that City Council has authorized the City's participation in said purchasing cooperative.
- 3) If a purchase is made from a single supplier or sole source vendor, the three (3) quotes are not required. Single supplier or sole source purchases are defined as purchases which are available from only one supplier because of patents or copyrights, or because the vendor is the only one which can supply the product or service. Sole source vendors must provide a letter to the City justifying their single supplier or sole source status and the letter must be approved by the City Attorney prior to the purchase being made. It is the responsibility of the user department to acquire this letter and provide it to the City Attorney and Purchasing Department.
- 4) Purchases between \$3,000 and \$50,000 shall comply with Texas Local Government Code 225.0215 relating to historically underutilized businesses (HUB). At least two (2) HUB vendors shall be contacted. If the list fails to identify a HUB vendor within Harris County, the city is exempt from this requirement.
- 5) A Purchasing Approval Form and supporting documentation must accompany purchasing requisitions valued between \$5,000 and \$49,999. Supporting documentation may include three (3) price quotations, a quote from a cooperative purchasing program, or sole source letter. The Purchasing Approval Form and supporting documentation shall be entered into Incode when the purchasing requisition is submitted or dropped off with the purchasing department.
- 6) In the event that every effort has been made to obtain at least three (3) quotes but are unable to do so, adequate documentation must be attached showing staff efforts to obtain the minimum number of quotes.

C) Purchases Subject to Competitive Bidding Exceeding \$50,000.

- 1) Purchases in excess of \$50,000 shall be competitively bid and awarded by the City Council, except as otherwise provided in this policy. Such purchases shall be solicited by formal competitive bids, competitive proposals, or a method described by Chapter 2269, Government Code.
- 2) Items specifically excluded from competitive bidding requirements by Section 252.022 as follows:
 - a) A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the property of the City;
 - b) A procurement necessary to preserve or protect the public health or safety of the City's residents;
 - c) A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
 - d) A procurement for personal, professional (including legal) or planning services;
 - e) A procurement for work that is performed and paid for by the day as the work progresses;
 - f) A purchase of land or right-of-way;
 - g) A procurement of items that are available from only one source, including:
 - (i) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
 - (ii) films, manuscripts, or books;
 - (iii) gas, water, and other utility services;
 - (iv) captive replacement parts or components for equipment;

- (v) books, papers, and other library materials for a public library that are available from the persons holding exclusive distribution rights to the materials; and
- (vi) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.
- h) A purchase of rare books, papers, and other library materials for a public library;
- i) Paving drainage, street widening, and other public improvements, or related matters if at least one- third of the cost is to be paid by or through special assessments levied on the property that will benefit from the improvements;
- j) A public improvement project, authorized by the voters of the City, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- k) A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- l) Personal property sold:
 - (i) at an auction by a state licensed auctioneer;
 - (ii) at a going-out-of business sale held in compliance with Subchapter F (V.T.C.A) Chapter 17, Business and Commerce Code; or
 - (iii) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
 - (iv) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391.
 - (v) Services performed by blind or severely disabled persons;
 - (vi) Goods purchased by a municipality for subsequent retail sale by the municipality;
 - (vii) Electricity; or
 - (viii) Advertising, other than legal notices.
 - (ix) This section does not apply to bonds or warrants issued under Subchapter A, Chapter 571.
 - (x) Purchases made through an existing state contract, cooperative purchasing program, or interlocal cooperation. The City Council must have approved the City's participation in any of these programs. In purchasing from a vendor through a purchasing cooperative, the user department must document the contract number that the vendors is providing the good or services under. SPECIAL NOTE: Department Directors of user departments shall not use cooperation purchasing for procurement with federal funds unless written documentation is provided from the federal agency issuing said funds that procurement through a cooperative purchasing satisfies all federal requirements.

SECTION 6. COMPETITIVE BIDDING REQUIREMENTS FOR PURCHASES/AWARDS APPROVED BY CITY COUNCIL

A) In accordance with Local Government Code, V.T.C.A. Section 252.021, as amended, competitive bidding is required in order for the City to enter into a contract requiring an expenditure of more than \$50,000, except for those items or procurements excluded from competitive bidding requirements, as herein provided. Such bids shall be solicited by sealed bids or proposals. The Code specifies the following purchases avoid competitive bidding requirement and, as a result, may subject the City as well as employee to criminal charges:

- 1) Separate Purchases. Purchases of items made separately, that in normal purchasing practice would be bought in one purchase, i.e., splitting on purchase in excess of \$50,000 into two purchases of \$25,000 each.

- 2) Sequential Purchases. Purchases made over a period of time that, in normal purchasing practice would be bought in one purchase.
- 3) Component Purchases. Purchases of parts of an item, in normal purchasing practice would be bought in one purchase.

B) Types of Competitive Bidding.

- 1) Competitive bidding consists of the following types of solicitations; (1) competitive bidding, (2) competitive proposals, and (3) one of the methods described by Chapter 2269, Government Code.
- 2) Competitive Sealed Bids. Formal sealed bids shall be solicited for all purchases in excess of \$50,000, except as otherwise provided herein. These bids are to be advertised, and subsequent contracts or awards shall be based on the detailed specifications and conditions of purchase. Generally, a competitive bid may not be negotiated after bid opening.
- 3) Competitive Proposals. The competitive sealed proposal procedure may be used for the purchase of goods or services, including high technology items and insurance. The contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals. The proposal documents must list the factors by which the proposal will be evaluated, and the weight to be given to each evaluation factor.
- 4) A Method Described by Chapter 2269, Government Code (Contracting and Delivery Procedures for Construction Projects). The alternate construction delivery methods apply to a "Public work contract" which means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. If the City Council considers using a construction delivery method other than competitive bidding, the Council must, before advertising, determine which method provides the best value for the governmental entity. The request for proposals or qualifications must include the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion. The alternate construction delivery methods include: competitive sealed proposals, construction manager-agent, construction manager-at-risk, design build method (does not apply to "civil works projects"), and job order contracting. These delivery methods may be used as alternative delivery methods to the standard competitive bidding for public works construction projects. The City Council may delegate its authority under Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person. The City Council shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

B-1) Award of Contract: Sec. 252.043 Texas Local Government Code states that for the award of contract:

- (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.
- (b) In determining the best value for the municipality, the municipality *may* consider:
 - (1) the purchase price;
 - (2) the reputation of the bidder and of the bidder's goods or services;
 - (3) the quality of the bidder's goods or services;
 - (4) the extent to which the goods or services meet the municipality's needs;

- (5) the bidder's past relationship with the municipality;
 - (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
 - (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and
 - (8) any relevant criteria specifically listed in the request for bids or proposals.
- (b-1) In addition to the considerations provided by Subsection (b), a joint board described by Section 22.074(d), Transportation Code, that awards contracts in the manner provided by this chapter may consider, in determining the best value for the board, the impact on the ability of the board to comply with laws, rules, and programs relating to contracting with small businesses, as defined by 13 C.F.R. Section 121.201.
- (c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.
- (d) Except as provided by Subsection (d-1 below), the contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:
- (1) 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
 - (2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.
- (d-1) A contract for construction of a project described by Subsection (d) that requires an expenditure of \$1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Subchapter D, Chapter 2269, Government Code.
- (e) If the competitive sealed bidding requirement applies to the contract for construction of a facility, as that term is defined by Section 2269.001, Government Code, the contract must be awarded to the lowest responsible bidder or awarded under the method described by Chapter 2269, Government Code.
- (f) The governing body may reject any and all bids.
- (g) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.
- (h) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.
- (i) This section does not apply to a contract for professional services, as that term is defined by Section 2254.002, Government Code.

C) Preparation of Bid documents and Request for Proposal (RFP).

- 1) Bid documents and RFP's shall be prepared by the user department, or an authorized agent of the City, such as a registered engineer or architect. Bid documents and RFP's shall be submitted to the City Manager's Office for review. In some instances, the City Attorney may need to review and prepare associated legal documents prior to distribution to prospective bidders.
- 2) Bids or RFP's Prepared by User Department. The bid document or RFP shall be prepared in accordance

with statutory provisions and user department recommendations. User departments shall review all bid/RFP drafts, and recommend any changes necessary to ensure competitive bidding. Upon completion of bid/RFP's the user department may provide a distribution list of prospective bidders. The user department will coordinate the distribution of the final bid/RFP to prospective bidders. Each bid/RFP shall be sequentially numbered by the City, and any correspondence relating to a bid/RFP should reference the bid number.

- 3) Bids or RFP's Prepared by Agents of the City. For more technical, or design bid/RFP's (for example, public works projects), the use of an authorized agent of the City may be necessary in order to prepare the bid document(s). Such agents or representatives may include registered professional engineers, architects, or consultants. The user department shall provide any information necessary for competitive bidding practices to the City's representative. Bid/RFP's prepared by City representatives may or may not be sequentially numbered, although for bid reference purposes, it is recommended that bids prepared by agents of the City utilize the City's bid numbering system.
- 4) High Technology Procurements. Competitive proposals or RFP's for high technology procurements may be prepared by the user department or an authorized agent of the City, and must specify the relative importance of price and other evaluation factors.
- 5) Notice Requirements. Notice requirements concerning competitive bidding shall follow the Local Government Code, V.T.C.A., Section 252.041, which states in part:
 - a) All Notice to Bidder/Proposer advertisements shall be placed by the City Secretary's office. Notice of the time and place at which the contract will be awarded must be published at least once a week for two consecutive weeks in a newspaper published in the City. The date of the first publication must be before the 14th day before the date set to award the contract.
 - b) If the competitive sealed proposal requirement applies to the contract, notice of the request for proposal (RFP) must be given in the same manner as that prescribed above.
 - c) Criteria for Notice Requirements. Additional requirements of proper notice at a minimum must contain the following information:
 - (i) time, place, date and location or mailing address where the bid/proposal is to be submitted;
 - (ii) the closing date the bid/proposal is due (the due date); a brief description of the item(s) being bid or proposed;
 - (iii) a name and department to contact for bid documents and information;
 - (iv) if applicable, state the time, date and location of any pre-bid conference;
 - (v) state whether or not a bid security is required; and
 - (vi) disclose the City's right to reject all bids.
- 6) Pre-bid/pre-proposal conferences may be arranged by the City with prospective bidders/proposers when deemed necessary. Prospective bidders will be invited to the conference to inquire about any part of the bid specifications or procedures.
- 7) Submission of Sealed Bid/Proposals. Bid or proposal notices shall be provided by the user department to the City Secretary's office for publishing in the newspaper. All notice to bidder advertisements shall be placed by the City Secretary's office. Hard copy bids or proposals shall be mailed, hand-delivered by bidders/proposers to the City Secretary's office (time and date stamped upon receipt) to the address stated in the bid/RFP. Certain construction bids may be requested by the City to be submitted electronically only, and in these instances, hard copy bids will not be allowed. Each hard copy bid or

proposal must be returned in a separate, sealed envelope, with the bid or proposal number indicated on the outside of the envelope. Electronic bids shall be submitted as instructed in the Notice to Bidders. On hard copy bids/proposals, only one bid per envelope is to be submitted. Multiple hard copies of the bid/proposal and a copy on a thumb drive may be requested by the City. All bids/proposals received will be unopened until the date and time stated in the bid/RFP for bid opening. Hard copy bids/proposals are opened at the prescribed time and date by the City Secretary or designee in the Council Chambers or designated location with applicable departmental personnel, City's consultants, if applicable, in attendance and open to the public. Electronic bids shall be opened publicly and virtually at the prescribed time and date.

- 8) The City Council has authorized electronic bids on construction projects via Civcast pursuant to LGC Chapter 252, Sec. 252.0415. The rules governing the receipt of electronic bids through Civcast for construction projects approved by resolution of City Council took effect on June 1, 2021.
- 9) The City shall expressly reserve the right to reject any and all bids/proposals, or to accept the bid deemed to be most advantageous to the City.
- 10) Bid Opening. Bids shall be opened by the designated City staff member on the date and at the time specified in the bid/RFP. Bidders, vendors, and the public are encouraged to attend the bid opening.
- 11) Disqualifications for Bids. Bids may be disqualified due to one or more of the following reasons:
 - a) Non-compliance with any part or section of the bidding instructions or specifications, or omission of any requested information;
 - b) Late bids, which will be returned to the bidder unopened, in accordance with the terms specified in the bid/RFP;
 - c) Failure to state deviations from bid specifications or terms; or
 - d) Unsigned bids/proposals or bids/proposals signed by unauthorized individuals.
- 12) Correction or Withdrawal of Bid/Proposal. Correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted where appropriate. Mistakes discovered before bid opening may be withdrawn by written notice received in the office designated in the bid/RFP prior to the time set for bid opening. After bid opening, no change in bid prices or other provisions of bids prejudicial to the interest of the City of fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - b) The bidder submits evidence, which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the City Manager.
- 13) Bid Bond, Performance Bond, Payment Bonds for Public Works Contracts.
 - a) Bid Bond. All bids for contracts subject to the competitive bidding and competitive proposal requirements by law, if the contract exceeds \$50,000, shall be accompanied by an official bidder's bond signed by both the surety and bidder, in an amount equal to ten percent (10%) of the total bid or proposal. Such bond must be payable to the City and executed by a corporate surety licensed to do business in Texas. The bond must be conditioned such that if the bidder is awarded the contract and then fails either to execute the contract timely or to provide any required bonds timely, or to do both, then in that event the surety will be obligated to pay the City an amount equal to the

difference between the bid of the bidder on whom the bond was written and the bid of the bidder who is finally awarded the contract and who executes the contract, up to the full sum of the bond.

Cashier's or Certified Check in-lieu-of Bid Bond. Bidders submitting bids shall have the option of furnishing to the City, with any such bid, a cashier's check or certified check, in lieu of the bid bond on the same terms and conditions as the bond. The cashier's check or certified check will not be allowed on an electronic bid submitted through Civcast on a construction contract.

- b) Performance Bond. If the contract exceeds \$100,000 the bidder to whom the contract is awarded must provide a performance bond signed by both the surety and bidder, in an amount equal to one hundred percent (100%) or the total bid. Such bond must be payable to the City and executed by a corporate surety licensed to do business in Texas. The bond must be conditioned upon the faithful performance of work in accordance with the plans, specifications and contract documents. The bonds must also comply with any other special requirements contained in the bid documents. The bond will be on a form provided by the City.
 - c) Payment Bond. A payment bond is required if the contract is in excess of \$50,000, in an amount equal to one hundred percent (100%) or the total bid. Such bond must be payable to the City and executed by a corporate surety licensed to do business in Texas. The bond is intended solely for the protection of all claimants supplying labor and material in the prosecution of the work provided for in the contract. The bond will be on a form provided by the City. If the contract requires an expenditure of less than \$100,000, the City may elect to not require the payment bond if the contract provides that no payment is due to the contractor until the work is completed and accepted by the City.
- 14) Cancellation of bid/RFP's. A bid/RFP or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the interest of the City. Each solicitation issued by the City shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or part for good cause when in the best interests of the City. Notice of cancellation shall be sent to all vendors solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar items.

SECTION 7. PROCUREMENT OF PROFESSIONAL SERVICES.

- A) Contracts for professional services, as defined herein, shall comply with the provisions of this policy, and in accordance with the Professional Services Procurement Act, Texas Government Code Chapter 2254. The following shall apply to procurement of, or contract for defined professional services:
- 1) The City 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:
 - a) on the basis of demonstrated competence and qualifications to perform the services; and
 - b) for a fair and reasonable price.
 - 2) The professional fees under the contract may not exceed any maximum provided by law.
- B) Contract for professional services of architect, engineer, or surveyor.

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

SECTION 8. BID SPECIFICATIONS PROCEDURES.

- A) Defined. A specification is defined as a concise description of an article or service an entity seeks to buy, and the requirements to be satisfied by the vendor in order to be considered for the award. It may include requirements for testing, inspection or preparing an item for delivery, or preparing (installing) it for use. It is the total description of the purchase.
- B) Characteristics of Specifications.
 - 1) It sets the minimum acceptability of the item or service. The term minimum acceptability is key, since the vendor must know the minimum standard of what to provide. Too high a standard means tax dollars will be wasted; too low, and products, materials or services will not achieve the end user requirements.
 - 2) It should promote competitive bidding. The maximum number of responsible vendors should be able to bid to the specification. Restrictive specifications act to decrease competition.
- C) Bid specifications are to be prepared by the user department. Bid specifications may be obtained from the following organizations.
 - 1) other local governments (cities or counties);
 - 2) the State government;
 - 3) the Federal government;
 - 4) trade associations and vendors; Note: if using vendor specifications, remove any “vendor bias,” i.e., specifications which fit only one brand name;
 - 5) other public or private standards and associations; and
 - 6) professional associations for procurement managers.

SECTION 9. IDENTICAL BIDS.

Pursuant to Texas Local Government Code:

Procedure for awarding a contract if a municipality receives identical bids:

- 1) If a municipality or district is required to accept bids on a contract and receives two or more bids from

responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

- 2) If only one of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.
- 3) The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.
- 4) This section does not prohibit a municipality or district from rejecting all bids.
- 5) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter G, Chapter 45, Education Code.

SECTION 10. BID TABULATION AND AWARD

A) The basis for awarding bids or proposals shall consist of reliable evaluations of the bids or proposals in order to make effective decisions. Depending on the project, the bid/proposal tab will be created from the opened bids/proposals by the user department, consulting engineer or architect or other consultant, City Secretary's office, or Civcast in the case of electronic bids for construction projects, and provided to applicable departments for their agenda preparation and City Council. The bids or proposal by performing the following:

- 1) tabulate and verify the bid or proposal as to mathematical accuracy;
- 2) determine that the bid item or proposal meets or exceeds the minimum specifications in the bid or proposal; if the bid does not meet or exceed specifications, determine that deviations from specifications have been documented by the bidder;
- 3) determine that the bid or proposal is signed by an authorized agent of the bidder.

B) Recommendation of Bid or Proposal. The City Manager or Department Director of the user department shall recommend the most advantageous bid to City Council for action based on the procurement method used (e.g. competitive sealed bids, proposal, and alternative construction delivery methods). The recommendation must include a copy of the bid/proposal tabulation. In competitive sealed proposals or construction manager-at-risk methods of construction delivery, a selection committee may be established to review, evaluate, score and rank proposals and make a recommendation to award.

SECTION 11. PURCHASING ETHICS AND CONFLICTS OF INTEREST.

A) City of Deer Park Employees.

- 1) Public employment is a public trust. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible vendors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City's procurement activities.
- 2) The City shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

- 3) No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if that employee, officer, or agent has a real or apparent conflict of interest (e.g., an immediate family member or partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in, or a tangible personal benefit from, a firm considered for a contract). [See 2 CFR §200.318(c)(1)].
- 4) Officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. [See 2 CFR §200.318(c)(1)].
- 5) The City will disclose, in writing, to the Federal awarding agency or pass-through entity, any potential conflicts of interest in accordance with the applicable Federal awarding agency policy. [See 2 CFR §200.112]. Additionally, the City will disclose in a timely manner, and in writing, to the Federal awarding agency or pass-through entity, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. If applicable, the City will also make post-award reports as provided by Appendix XII to 2 CFR 200. Failure to make a required disclosure may result in any number of significant remedies, including suspension or debarment. [See 2 CFR §200.113 & §200.339].
- 6) Violations of this policy by officers or employees of the City may result in disciplinary action, up to and including termination of employment. Violations of this policy by agents of the City may result in repercussions, including cancellation of the contract, as stipulated in the contract provisions related to conflicts of interest.

B) Conflicts of Interest.

- 1) The Local Government Code, Section 171, defines and regulates the conflicts of interest regarding local government officials. Its purpose is to establish the procedures for local government officials to carry on activities in the event there is some commercial interest in the entities that conduct business with the City.
- 2) Definitions.
 - a) A “local government official” means a member of the governing body or another elected or appointed officer, paid or unpaid, of any district, county, municipality, precinct, central appraisal district, transit authority or district, or other local government who exercises responsibilities beyond those which are merely advisory in nature. For the purpose of this policy, a local government official includes all City officials, either elected or appointed, but not ordinary employees. To be affected, the local official must have a “sovereign authority largely independent of others.”
 - b) A “business entity” includes all commonly accepted business entities, such as a corporation, partnership, sole proprietorship, trust or any other entity recognized by law.

C) Applicability.

- 1) “substantial interest in a business entity” occurs if an official has:

- a) ten (10) percent or greater ownership of the voting stock or shares of the business entity or owns ten (10) percent or more of the fair market value of the entity; or
 - b) ten (10) percent of the official's gross income from the business entity.
- 2) An official has a substantial interest in real property if the interest (equitable or legal) exceeds a fair market value of \$2,500 or more.
 - 3) An official is considered to have a substantial interest if a person related to the official in the first degree of consanguinity (blood) or affinity (marriage) has a substantial interest under this section.
 - 4) If an official has a substantial interest in a business entity or in real property, the official must file an affidavit stating the nature and extent of the interest before any vote involving the business or real property. The affidavit must be filed with the City Secretary, and the official must abstain from any further participation in the matter if:
 - a) for a business entity, the vote will have a special economic effect on the business different from the general effect on the public; or
 - b) for real property, it is reasonable to believe that the vote will benefit the value of the property over any benefit to the general public.
- D) Texas Government Code 2252.908 - Disclosure of Interested Parties - Form 1295. Section 2252.908, Texas Local Government Code: Section 2252.908 relates to interested party disclosures and applies to contracts entered into after January 1, 2016. The law provides that:
- 1) The City is prohibited from entering into a contract with a business entity unless the business entity submits a disclosure of interested parties (i.e., discloses a person who has a controlling interest in the business or who actively participates in facilitating the contract for the business) if the contract requires an action OR vote by the City Council before the contract may be signed;
 - 2) The disclosure must be on a form prescribed by the Texas Ethics Commission; and
 - 3) The City must, not later than 30 days after receiving a disclosure, submit a copy to the Texas Ethics Commission.

SECTION 12. PROCUREMENT CARDS.

- A) This subsection shall apply to purchases made using city procurement cards. Use of a procurement card does not replace or override the city's purchasing procedures or state law. Procurement cards are to be used for city business only and any purchases are subject to review. A procurement card may be revoked at any time with or without prior notice.
- 1) Each cardholder must sign a procurement card agreement prior to issuance of the card to confirm understanding of an agreement to comply with all guidelines, policies, and procedures relating to the expenditure of funds.
 - 2) Purchases made using a city procurement card, can be made only by the employee to whom the procurement card was assigned or an employee authorized by the cardholder to make a purchase.
 - 3) Purchases may not be made above the limit established by the end user Department Director. The maximum limit is \$5,000.00, but if the city manager has authorized an exception, the maximum limit may be \$10,000.00.
 - 4) The Director of each department shall be responsible for reviewing and approving all purchases charged to a procurement card.
 - 5) It shall be the responsibility of the end user to reconcile all procurement card statements and forward

the approved monthly statement with all itemized receipts, to the purchasing department immediately following the end of each billing cycle. The end user shall be responsible for any unauthorized charges on their procurement card.

SECTION 13. BID LISTS.

- A) An official bid or vendor list is not maintained by the City. Each user department shall be responsible for maintaining bid or vendor lists.

SECTION 14. RECEIPT AND INSPECTION OF MERCHADISE.

- A) Inspection of merchandise received shall be the responsibility of the user department. Damaged merchandise shall be returned to the vendor by the user department immediately, along with any description of the damages. The City shall not be responsible for payment for damaged merchandise received. In addition, the City shall not be responsible for payment of merchandise or goods which have not been ordered in accordance with this policy, or have not been accepted for delivery by the Department Director of the user department. Such goods or merchandise shall be immediately returned to the vendor by the user department.
- B) Shipping of merchandise shall be designated FOB destination (Deer Park). FOB destination means that the vendor (seller), not the City (buyer) must bring action against the carrier for any damage of loss during shipping. The title to the merchandise remains with the seller until the merchandise is delivered to the buyer's destination. Although the seller is responsible for payment of shipping charges, the freight cost is usually reimbursed by the buyer when the seller processes the invoices for the merchandise delivered.

SECTION 15. CONSTRUCTION AND ENGINEERING/ARCHITECTURAL CONTRACT ROUTING FORMS

Department Directors of user departments responsible for processing of contracts for construction or engineering or architectural consultants shall utilize the appropriate current contract routing form to obtain approval signature and any required insurance, bonds, or other documents prior to final execution of the contract by the Mayor.

SECTION 16. PAYMENT PROCESSING.

- A) Payments for purchases shall be made to the vendor only after the proper approval process, as provided in this policy, and only in compliance with these procedures and policies. User departments shall approve all documents prior to payment, subsequent to the approval of all purchase requests. All payments to vendors shall be centrally processed through the Finance Department.
- B) Payments shall be made in accordance with the prices and rates specified in the bid or purchase order. No payment shall be made which exceeds the approved amount, unless proper authorization has been received in advance. The City Manager shall approve any departures from amounts authorized through the purchasing process. On formally bid contracts over \$50,000, any cumulative change orders increasing those contracts in an amount exceeding 10% of the contract or \$10,000, whichever is lower, shall be approved by City Council. Any cumulative change order less than 10% of the contract or \$10,000, whichever is lower, may be approved by the City Manager. The original contract price may not

be increased by more than 25 percent. The original contract price may not be decreased under this

section by more than 25 percent without the consent of the contractor. Vendor payments are generally processed weekly by the Finance Department in order to take advantage of vendor discounts, and also for cash management purposes. All documents and necessary forms are due in the Accounts Payable's Office by 12:00 p.m. on Tuesday.

- C) The Prompt Payment Act (V.A.C.S., Art. 601f) provides that payments to vendors shall be made within thirty (30) days, or interest shall become due and payable to the vendor. All user departments shall process all necessary payment authorizations in order to prevent an unnecessary accrual of interest under this provision. Any interest charges accruing to the City as a result of this provision shall be charged against the budget of the user department.
- D) The City is exempt from all applicable State sales taxes (State Tax Code, Section 151.309), and certain federal taxes, except for taxes specifically designated by State and Federal statutes or regulations. All vendors shall be notified of the City's exempt status. The City does not maintain a tax-exempt number for the State of Texas; however, the City may provide an exemption certificate to any vendor requesting a tax-exempt number. The exemption certificate shall substitute for a tax-exempt number.

SECTION 17. BOYCOTTING ISRAEL.

Texas Government Code Sec. 2271.002:

- A) applies to a contract provides that:
 - 1) is between a governmental entity and a company with 10 or more full-time employees; and
 - 2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.
- B) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:
 - 1) does not boycott Israel; and
 - 2) will not boycott Israel during the term of the contract.

SECTION 18. PROCUREMENT POLICIES AND PROCEDURES FOR PROCUREMENT WITH FEDERAL FUNDS.

- A) The City of Deer Park follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.
- B) These procurement policies and procedures are contained in Exhibit A and are made part of the City's purchasing policy.

SECTION 19. CITY COUNCIL

The City Council shall periodically review and, if necessary, recommend changes in, these purchasing policies and procedures, bidding procedures, bid specifications, and any other applicable purchasing function.

EXHIBIT A
CITY OF DEER PARK
PROCUREMENT POLICIES AND PROCEDURES FOR PROCUREMENT WITH FEDERAL FUNDS

The City of Deer Park follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.

§200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

§200.318 General procurement standards.

(a) The City of Deer Park, as a non-Federal entity, must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The City of Deer Park's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(b) The City of Deer Park must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The City of Deer Park must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the City of Deer Park may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the City of Deer Park may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the City of Deer Park has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the City of Deer Park must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the City of Deer Park is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The City of Deer Park's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City of Deer Park is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar

procurement arrangements.

(f) The City of Deer Park is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The City of Deer Park is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The City of Deer Park must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The City of Deer Park maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

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

(i) The actual cost of materials; and

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

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the City of Deer Park awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The City of Deer Park alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the City of Deer Park unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

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

(d) The City of Deer Park must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The City of Deer Park must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City of Deer Park must not preclude potential bidders from qualifying during the solicitation period.

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

§200.320 Methods of procurement to be followed.

The City of Deer Park must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in §200.1, or a lower threshold established by the City of Deer Park, formal procurement methods are not required. The City of Deer Park may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) **Micro-purchases—(i) Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in §200.1). To the maximum extent practicable,

the City of Deer Park should distribute micro-purchases equitably among qualified suppliers.

(ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the City of Deer Park considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the City of Deer Park.

(iii) **Micro-purchase thresholds.** The City of Deer Park is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the City of Deer Park must be authorized or not prohibited under State, local, or tribal laws or regulations. The City of Deer Park may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) (<https://www.ecfr.gov/current/title-48/chapter-1/subchapter-A/part-2/subpart-2.1>) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

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

(A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) **City of Deer Park increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The City of Deer Park must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) **Small purchases**—(i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the City of Deer Park.

(ii) **Simplified acquisition thresholds.** The City of Deer Park is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the City of Deer Park must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by the City of Deer Park, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the City of Deer Park determines to be appropriate:

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

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

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

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) 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;

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

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs 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

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The City of Deer Park must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the City of Deer Park , with price and other factors considered; and

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

(c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

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

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

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the City of Deer Park; or

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

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

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

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

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

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

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

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§200.322 Domestic preferences for procurements.

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

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§200.323 Procurement of recovered materials.

The City of Deer Park, as a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.324 Contract cost and price.

(a) The City of Deer Park must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The City of Deer Park must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the City of Deer Park under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

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

§200.325 Federal awarding agency or pass-through entity review.

(a) The City of Deer Park must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The City of Deer Park must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The City of Deer Park's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The City of Deer Park is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The City of Deer Park may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The City of Deer Park may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City of Deer Park that it is complying with these standards. The City of Deer Park must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the City of Deer Park provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

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

§200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part

Appendix II to Part 200 - Contract Provisions for City of Deer Park Contracts under Federal Awards

In addition to other provisions required by the Federal agency or City of Deer Park, all contracts made by the City of Deer Park under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

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

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

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

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

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2](#) (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

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

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

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

(J) See [§ 200.323](#)*

(K) See [§ 200.216](#)**

(L) See [§ 200.322](#)***

***§ 200.323 Procurement of recovered materials.**

A [non-Federal entity](#) that is a [state](#) agency or agency of a political subdivision of a [state](#) and its [contractors](#) must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

****§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.**

(a) [Recipients](#) and sub [recipients](#) are prohibited from obligating or expending [loan](#) or grant funds to:

- (1) Procure or obtain;
 - (2) Extend or renew a [contract](#) to procure or obtain; or
 - (3) Enter into a [contract](#) (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any [subsidiary](#) or affiliate of such entities).
- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any [subsidiary](#) or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering [loan](#), grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See [Public Law 115-232](#), section 889 for additional information.

(d) See also [§ 200.471](#).

*****§ 200.322 Domestic preferences for procurements.**

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

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

These Policies and Procedures are passed and approved by the City of Deer Park through the City Council on August 16, 2022.



Sara Robinson, Director of Finance
City of Deer Park, Texas

