

LINCOLN PARISH POLICE JURY
PROCUREMENT POLICY RELATIVE TO FEDERAL PROGRAMS

These procedures are intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the Lincoln Parish Police Jury (The Jury) in the conduct of all its Federal Programs (and the Jury's subrecipients). These guidelines meet the standards established in 2 CFR 200.317 through 200.326 and state requirements.

PURPOSE

The purpose of this Statement of Procurement Policy is to: (1) provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Jury; (2) assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the Jury; (3) promote competition in contracting; provide safeguards for maintaining a procurement system of quality and integrity; and (4) assure that the Jury purchasing actions are in full compliance with applicable State laws, Federal standards, the Jury ordinances, regulations or other relevant policies.

PROCUREMENT AUTHORITY AND ADMINISTRATION

The primary purchasing/procurement authority for the Jury shall be bestowed to the Parish Treasurer. All procurement transactions shall be conducted and administered by the Treasurer.

The Treasurer shall insure that there are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders), work is inspected before payment, and payment is made promptly for contract work performed and accepted.

The Treasurer shall insure the appropriate method of procurement is used for the particular purchase considering Federal, State and the Jury dollar thresholds.

The Treasurer shall insure the appropriate contract and prices are applied to the particular purchase.

The Treasurer shall insure that contracts shall be awarded only to responsible contractors/firms that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.

The Treasurer shall give consideration to such factors as the contractor's/firm's capacity, integrity, compliance with public policy, record of past performance, and financial and technical resources.

The Treasurer shall establish and maintain a contract administration system to ensure that contractors perform in accordance with their contracts, which provides for the proper inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on construction contracts, and similar matters.

CODE OF CONDUCT

No employee, officer, or agent of the Jury shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, or any covered person listed in R.S. 42 §1112(B) has a financial or other interest in the firm selected for award.

No officer, employee or agent of the Jury shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. No employee, officer, or agent of the Jury shall knowingly use confidential information for actual or anticipated personal gain.

Any alleged violations of these standards of conduct shall be referred to the Jury Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

FAIR AND OPEN COMPETITION

The goal of the Jury is to conduct all its procurement activities to provide the most qualified contractors or best products and in a manner that also discourages and prevents favoritism, collusion, fraud, waste, and abuse and to ensure objective contractor performance and eliminate any unfair competitive advantage. The Jury will carry out all procurement activities in a manner that provides maximum free and open competition.

The Jury will exclude any contractors or potential contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements. In addition, State law provides the above shall further be prohibited from participating as subcontractors related to the award of that procurement.

The Jury shall not make any uncompetitive awards to an existing contractor and shall not make a federally funded award or reimburse from such award to a contractor based upon any form of agreement or understanding for general, unspecified services or broad types of services entered into in advance of work to be done.

The Jury will not enter into any arrangement or agreement [implied or express] to prepare a grant (or development) application on a “no fee” basis and then compensate that the contractor by paying a contingent fee or other compensation from the grant award.

The Jury will avoid situations that create unequal access to information that can occur when a contractor has access to nonpublic information as part of its performance under another contract with the Jury and where that information may provide the contractor with a competitive advantage in a later competition for a Lincoln Parish Police Jury contract.

Procurement procedures will not restrict or eliminate competition

The Jury shall not place unreasonable requirements on firms in order for them to qualify to do business. Nor will the Jury encourage or participate in noncompetitive practices among firms. The Jury is alert to organizational conflicts which would jeopardize the negotiation process and limit competition. The Jury will not require unnecessary experience or bonding requirements. Contractors wanting to do business with the Jury must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies.

Any alleged violations of these standards of conduct shall be referred to the Jury Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

SOLICITATIONS AND ADVERTISEMENTS

All solicitations of bids or offers shall clearly set forth all requirements which bidders or offerors must fulfill and all other factors to be used in evaluating bids, proposals, or statements of qualifications.

The Treasurer shall incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured in all solicitations of offers. In competitive procurements, these descriptions shall not contain features, which unduly limit competition. The description may include a statement of the qualitative nature of the material, product, or service and the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. A "brand name or equal" description may be used to define the performance or other salient requirements of procurement, but equivalent products must be acceptable. The specific features of the named brand which must be met by bidders/offerors shall be clearly stated. The Treasurer shall determine what regulatory and/or statutory requirements for publicizing or advertising are applicable to the procurement. The Treasurer shall make a determination as to whether a particular procurement will require more than the minimum statutory or regulatory geographic and/or solicitation time period will be necessary to achieve effective competition and will make the appropriate adjustments. The Treasurer shall take into consideration the market area to be reached by the advertising method chosen and the number of potential vendors in that market area.

The nearest metropolitan statistical area [MSA] to the Jury is Monroe, Louisiana, and whose largest general circulation newspaper is the Ouachita Citizen. The Jury has designated as the “official journal” the Ruston Daily Leader. All procurement actions requiring advertisement will be published in the Ruston Daily Leader, at a minimum. The Jury maintains a website at www.lincolnparrish.org which is available for conducting procurement solicitations and advertisements. The Jury does not and is not required to provide a uniform and secure electronic interactive system for the submittal of bids.

For all procurement activities requiring formal advertising the Treasurer will publish its bids and proposals in the Ruston Daily Leader. In order to achieve maximum effective competition, the Treasurer is authorized to publish in other MSA newspapers if needed to increase the number of potential vendors. The Treasurer may also publish in any applicable trade journals or industry publications. The Treasurer may conduct direct solicitations in addition to the required formal advertising requirements, provided that all pertinent information is provided equally to all prospective vendors.

CONTRACTING WITH SMALL AND MINORITY BUSINESS, WOMEN BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Jury shall take affirmative steps to assure that small and minority firms, women’s business enterprises, and labor surplus firms are solicited whenever they are potential qualified sources. the Jury shall also consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms, women’s business enterprises, and labor surplus firms. Where permitted by regulations, delivery schedules will be developed which will include participation by such businesses. The Jury shall assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority firms, women's business enterprises, and labor surplus area firms.

SUSPENSION AND DEBARMENT

Contracts for Federal awards shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined ineligible by any Federal agency in accordance with HUD regulations (24 CFR Part 24) or by other Federal agencies (e.g., Department of Labor, for violations of Secretary of Labor Regulations) when necessary to protect the Jury in its business dealings.

PROTESTS

Any bidder or offeror, who desires to protest the solicitation shall submit in writing to the Jury, or Treasurer at least 10 days before bid opening or due date of proposal.

Any bidder or offeror, who desires to protest the award or decision to award a contract shall submit the protest in writing to the Jury, or Treasurer no later than 10 days after the award or the announcement of the decision to award, whichever occurs first. At minimum written protests will include: Name, address, and fax and telephone numbers of the protester [including company name]. Identity or description of the solicitation or contract number. Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.

CONTRACT TYPES

The Treasurer shall use the appropriate type of contract described below as determined by the nature of the purchase.

Firm fixed-price. This contract type requires the delivery of products or services at a specified price, fixed at the time of the contract award and not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. It is appropriate for use when fair and reasonable prices can be established at time of award, definite design or performance specifications are available, products are off-the-shelf or modified commercial products or services for which realistic prices can be offered, and any performance uncertainties can be identified, and reasonable cost estimated in advance. A purchase order issued by the [the purchasing/procurement authority] and which specifies the product, quantity of supplies or scope of services ordered, contains a determinable date by which delivery of the product, supplies or performance of the services is required and contains a definitive price not subject to any contingencies may be considered a fixed price contract upon the acceptance and execution by [the purchasing/procurement authority].

Cost-reimbursement. Cost-reimbursement types of contracts provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the [the purchasing/procurement authority]. Unlike a fixed price contract, the contractor may not necessarily receive the total amount of the cost ceiling. Cost-reimbursement contracts are suitable for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

Time and Materials contract. Under these contracts, the contractor's services are pre-priced (usually, in terms of hours) in the contract, and the Treasurer orders services in unit amounts (e.g., hours) as needed until the funds in the contract are exhausted. The Jury may use this type of contract only after the [the purchasing/procurement authority] determines that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. For reimbursement under Federal award, the Jury must have obtained prior written approval from the Federal or pass through agency.

Contract Options

The Treasurer may include options for additional quantities or performance periods in its contracts if they meet all the following requirements:

Options be included in contracts, provided that:

- A. The option is contained in the solicitation;
- B. The option is a unilateral right of the Jury;
- C. The contract states a limit on the additional quantities and the overall term of the contract;
- D. The options are evaluated as part of the initial competition;
- E. The contract states the period within which the options may be exercised;
- F. The options may be exercised only at the price specified in or reasonably determinable from the contract; and
- G. The options may be exercised only if determined to be more advantageous to the Jury than conducting a new procurement.

The inclusion of an additional scope of work to the original scope contained in the solicitation is not considered to be an option and will require conducting a new procurement.

TYPES OF PRICES

The Treasurer shall insure the appropriate type of price(s) as determined by the nature of the purchase are included in the contract. Percentage of construction cost or any other indefinite metric will not be used for price determination in any contract funded in whole or in part with Federal funds. Below are descriptions of four different categories of prices. The types of prices are closely associated with types of contracts; Lump Sum and/or Unit Price with specified quantity for a Fixed Price contract. A Cost- Reimbursement contract may have Lump sum or Unit Price components in addition to and Billable Hours and/or Reimbursable Costs.

Lump Sum Price

For definable work product or deliverable, whose value can be expressed as a single price inclusive of all production costs [labor, materials and purchased service costs, allowable overhead and profit]. The contractor will bear all the risks in producing the work product or deliverable at the agreed upon price. Because of the presumed certainty of contract task or item performance that qualifies a contract task or item as a Lump Sum price no adjustments to contract price are permitted. For fixed price contracts no change in quantities for any Lump Sum task(s) or item(s) would be permitted. Payment of total contract price will be made upon satisfactory performance, delivery and final acceptance of contract task(s) or item(s).

Unit Price

For definable work products or deliverables whose value can be expressed as a single price inclusive of all production costs [labor, materials and purchased service costs, allowable overhead and profit] for contract tasks or items and will be needed in two more iterations at the same agreed upon price. The contractor agrees to bear all the risks and cost variance in producing or performing the contract tasks or items at the agreed upon price per unit and for the quantities specified. For fixed price contracts, no change in quantities are permitted without an approved change order. If certain unit prices are contained in the initial contract, no deviations shall be allowed in computing negotiated change order costs. In cases where there is a discrepancy between the base bid total and the sum of the extended unit prices, the unit price bid shall govern.

Billable Hours

For work efforts that are composed of predominately personnel compensation costs with a minimum of outside purchases of materials and services needed to produce a work product or provide a service; the contractor will be reimbursed for applied work efforts at the agreed upon billable hourly rate(s) inclusive of direct labor compensation, overhead, general and administrative expenses, and profit [fully burdened] by job title. Billable hours may be utilized for services or products that have a definitive accomplishment or product or may be used to reimburse work efforts for a scope of services with an accomplishment that cannot be estimated accurately.

Reimbursable Costs

For work, efforts that require significant outside purchases of materials, services or from subcontractors in addition to the contractor's personnel compensation costs needed to produce a work product or service. The contractor's personnel compensation costs will be reimbursed for applied work efforts at the agreed upon hourly rate(s) by job title. The contractor's itemized outside purchases of materials and services will be reimbursed at invoice cost identifying items by quantities and/or cost per unit.

COST REASONABLENESS

The Treasurer shall insure that all contract awards are based upon a price or cost reasonableness determination. Normally, competition establishes price reasonableness. A price analysis is conducted by comparing lump sum prices – not cost estimates - received from contractors in a competitive pricing situation (e.g., when sealed bids are obtained).

In situations where there is minimal or no price competition, the Treasurer must obtain a breakdown of the proposed costs and perform a cost analysis.

The Treasurer will require a cost analysis when:

Using the competitive proposal (or “negotiated”) method of contracting, e.g., for acquiring professional, consulting or Architect/engineering (A/E) services when there are other evaluation factors besides price or cost. Under the competitive proposal method, offerors are required to submit cost proposals that show the elements (e.g., labor, materials, overhead, and profit) of their proposed costs or price.

Cost analysis will be used whenever there is no price competition. Negotiating a contract with a **sole source**, i.e., not soliciting competitive bids or offers. After soliciting competitive sealed bids, you receive **only one bid**, and it differs substantially from your independent estimate of the contract price.

The Treasurer will insure there will be adequate documentation to support contractor billings so that auditors may assess whether the amount paid for the services was reasonable. The Treasurer will require contractors to provide written billings with “sufficient detail,” to show what the contractor did, and the time required, if the billable hour or reimbursable cost pricing method is used. Contractors must be willing to provide work products or other evidence of tasks performed.

PROCUREMENT RECORDS

These records **shall** include, but **shall not** necessarily be limited to, the following:

- A. Rationale for the method of procurement (if not self-evident);
- B. Document the basis for determining that price or rate quotations were obtained from an adequate number of qualified sources.
- C. Copies of bid and proposal advertisements and all responses
- D. Documentation of quote, bid or proposal solicitations and all responses including any vendors contacted through the direct solicitation,
- E. Documentation will also include evaluation/scoring documents, notes on interviews or negotiations. For competitive proposals the file will also include the selection criteria utilized,
- F. Document the basis for the contract price, a copy of the bid tabulation form or Copy of the completed Cost Reasonableness form for services.
- G. Selection of contract type
- G. Written statement explaining the basis of contractor selection
- H. A copy of the contract documents awarded or issued and signed by the Treasurer;
- I. Copies of prior canceled, withdrawn or superseded solicitations; copies of withdrawn or rejected bids or proposals;
- J. Basis for contract modifications; and
- K. Related contract administration actions including contractor clearance

FEDERAL CONTRACT PROVISIONS

The Jury shall include the provisions of 2 CFR 200 Appendix II in every contract funded with a Federal award. In addition, the Jury will include the required contract provisions of 24 CFR Part 75 for awards funded by the U.S. Department of Housing and Urban Development.

PROCUREMENT METHODS AND PROCEDURES

The Treasurer shall use the appropriate method of procurement and follow the applicable procurement procedures as determined by the nature of the purchase and the applicable Federal/State price/cost thresholds as they are listed in the Procurement Methods and Procedures Section. The Treasurer shall never divide or separate any purchase requirements in order to avoid any State or Federal threshold regarding required method of procurement. For public works projects under \$250,000, the Treasurer shall make a determination on whether to use its advertised sealed bid procedure, small purchase or possibly competitive proposals.