



WALLER COUNTY POLICY FOR ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES PROCUREMENT

PART 1. PURPOSE AND ADMINISTRATIVE PROVISIONS

1.1 PURPOSE

The purpose of this policy is to establish efficient and uniform procedures for selecting providers of architectural, engineering, and land surveying services. Texas Government Code Chapter 2254 (the “Act”) prohibits awarding contracts for specified professional services on the basis of competitive bidding. Tex. Gov’t Code § 2254.003(a). Rather, the Act requires a county to award a contract based on “demonstrated competence and qualifications” to perform the services for a specific project, and for a “fair and reasonable price.” Tex. Gov’t Code § 2254.003. Services for architecture, engineering, and land surveying must be awarded by (1) selecting the most highly qualified provider of those services based on demonstrated competence and qualification, and (2) attempting to negotiate with the selected provider a contract for a “fair and reasonable price.” Tex. Gov’t Code § 2254.004. Contracts made in violation of the Act are void. *Id.* § 2254.005.

1.2 BEST PRACTICES

A best practice for determining “demonstrated competence and qualifications” under the Act is for the Waller County Purchasing Director to issue a Request for Qualifications for each specific project requiring architecture, engineering, or land surveying services. Absent an RFQ for a specific project, a prequalified pool of architecture, engineering, and land surveying service providers may be used in accordance with this Policy for Architectural, Engineering, and Land Surveying Services Procurement (“**Policy**”). This Policy is intended to ensure that a reasonable review policy will likely yield a “most highly qualified” provider based on “demonstrated competence and qualifications” for a specific project.

1.3 ENFORCEMENT

The Texas Attorney General has determined that “the County Auditor...has the principal duty for requiring county government to conform to the [Act].” Op. Tex. Att’y Gen. JC-0266 (2000). Therefore, the County Auditor is responsible for ensuring that contracts entered into on behalf of Waller County comply with the requirements of the Act, and for approving only those claims resulting from such contracts.

PART 2. PROCUREMENT OF ARCHITECT-ENGINEER-SURVEYOR SERVICES

2.1 SMALL CAPITAL PROJECTS

For essential, routine projects that enhance existing facilities, improve safety, or consist of routine maintenance, and for which the cumulative professional services fees do not exceed \$10,000,000 (“**Small Capital Projects**”), Waller County will select providers of architecture, engineering, and land surveying (“**A-E-S**”) services, as those services are defined by Texas Government Code § 2254.002(2). Provider selection for identified Small Capital Projects shall be made from the Registry in accordance with this Policy.

2.2 PROFESSIONAL SERVICES REGISTRY

Waller County will maintain an ongoing professional services registry (“Registry”) of A-E-S service providers using the Architect-Engineer-Surveyor Services Form (“A-E-S Services Form”), attached hereto as Attachment 1. This form is based on Standard Form 330 prescribed by GSA-FAR (48 CFR) 53.236-2(b) and used by the federal government for procuring architecture and engineering services, and has been adapted for county use and compliance with the Act. All

evaluations as to which provider is the most highly qualified will be made based on the standard of demonstrated competence and qualifications.

- A. Consistency and Fairness. The Registry process must be consistent, open, and fair for all A-E-S service providers wishing to participate in the Registry. While inclusion in the Registry is not a guarantee that work will be given, all providers in the Registry will be given consistent opportunities to demonstrate their competence and qualifications for appropriate projects.
- B. Registry Updates. The Registry will be updated at least once every three (3) years. A-E-S service providers desiring to be included in the Registry must submit a completed A-E-S Services Form to the County Engineer, together with a certificate of firm registration with the Texas Board of Professional Engineers and Land Surveyors, or the Texas Board of Architectural Examiners, in accordance with the instructions posted on the County Engineer's website.
- C. County Engineer Administration. The County Engineer will oversee administration of the Registry and is responsible for receiving, compiling, and maintaining submitted A-E-S Services Forms, and for providing Registry information to other county officials, departments, and department heads as needed for County projects requiring A-E-S Services.

2.3 SELECTION PROCESS FOR SMALL CAPITAL PROJECTS

- A. Department Head Selection. When a Small Capital Project is identified, the using department head will select an A-E-S service provider from the Registry based on the provider's demonstrated competence and qualifications, ranked using a predetermined ranking system.
- B. Recommendation to Commissioners Court. The using department head will present the selected provider to the Commissioners Court, together with a recommendation that the County be authorized to enter into negotiations for services with the selected provider. A recommendation is non-binding on the Commissioners Court.
- C. Contract Negotiation. Upon authorization from the Commissioners Court, county personnel will attempt to negotiate a contract with the selected provider for a fair and reasonable price. A negotiated contract is not final until it is formally approved or disapproved by the Commissioners Court acting as a body in a meeting that complies with Texas Government Code Chapter 551 (the "Texas Open Meetings Act"). If a contract cannot be negotiated with the selected provider, the using department head will select the next most highly qualified provider from the Registry for the project, and the County will begin contract negotiations with that provider after receiving authorization from the Commissioners Court to do so. This process will continue until the County is able to successfully negotiate a contract with a provider.
- D. Selection Documentation. The using department head must document the basis for the provider's selection and ranking ("Selection Backup"). Selection Backup will be maintained on record with the using department, and made available for review by the Procurement Director and/or District Attorney's personnel upon request.

2.4 RIGHTS AND RESPONSIBILITIES

- A. County Engineer. The County Engineer is responsible for administering the Registry in a consistent, open, and transparent manner free of conflicts of interest, and for providing Registry information to using departments as needed for their selection of A-E-S service providers.
- B. Purchasing Director. The Purchasing Director is a facilitator and ensures compliance with the County's purchasing policies. The Purchasing Director will maintain records related to A-E-S service contracts and may review Selection Backup maintained by a using department upon request.
- C. Auditor's Office. The Auditor's Office has the authority to audit any department with regard to procurement under the Act, to check compliance with County policies and procedures, and review Selection Backup and ranking documentation maintained by a using department.
- D. Precinct Commissioner. The commissioners whose precinct is most affected by a project may participate by making a recommendation in the public interest; however, commissioners are bound by ethical rules including a prohibition that they not act as a surety or participate in any procurement of a government contract in which he or she may have a substantial interest (ten percent (10%) or \$15,000 or more of the fair market value of the business entity) in violation of Texas Local Government Code Sections 171.001-171.004.

2.5 SELECTION OF A-E-S SERVICE PROVIDERS FOR OTHER PROJECTS

- A. Large Capital Projects and Special Projects. Procurement of A-E-S services for large, long-term investments in constructing or upgrading infrastructure and for which the cumulative professional services fees exceed \$10,000,000, and those projects requiring extraordinary care and expertise shall be done through an RFQ issued by the Purchasing Director.
- B. Federally Funded Projects. Procurement of A-E-S services for projects that are funded in whole or in part with federal funding shall be done through an RFQ issued by the Purchasing Director, and in accordance with the procurement requirements of Chapter 200 of Title 2 of the Code of Federal Regulations, or as otherwise directed by the relevant funding agreement.

2.6 EXCEPTIONS

In exigent circumstances, the Commissioners Court may approve the use of the Registry selection process for specific projects for which the cumulative professional services fees will exceed \$10,000,000. In that event, the Commissioners Court must approve the use of the Registry selection process by a vote held in a meeting that complies with the Texas Open Meetings Act.

PART 3. GENERAL PROVISIONS

3.1 REASONABLE FEES

Fees for A-E-S services must be lawful, fair, and reasonable, and may not exceed the recommended practices and fees published by the applicable professional associations. Tex. Gov't Code § 2254.003(a)(2), (b)(1)-(2).

3.2 COMPLIANCE REPORTING.

Any ethical issues or instances of policy violation must be reported to the Auditor's Office as soon as possible for review and further appropriate action.

3.3 EFFECTIVE DATE

This policy shall be effective on the date of approval by the Waller County Commissioners Court. Effective September 2, 2026, an A-E-S service provider wanting to be included in the Registry must submit a completed A-E-S Services Form, and otherwise comply with the requirements of this policy.