

ORDINANCE NO. 2022-37

FILED

DEC 20 2022

LESLI PENNY

COUNTY & PROBATE COURT CLERK

**BE IT ENACTED BY THE QUORUM COURT OF CRAIGHEAD COUNTY,
ARKANSAS; AN ORDINANCE TO BE ENTITLED:**

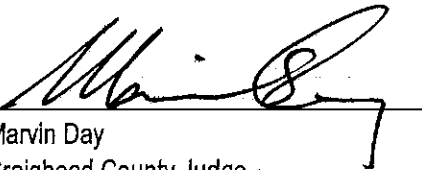
An Ordinance to adopt Treasury State and Local Fiscal Recovery Funds (SLFRF) County Federal Procurement and Purchasing Policy as an addition to the Craighead County Purchasing Policy, as it relates to regular SLFRF monies.

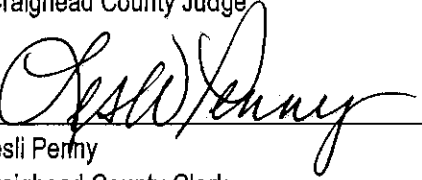
WHEREAS: Craighead County, having received \$21.4 million in federal funds through the State and Local Fiscal Recovery Fund (SLFRF), is in need of adding a supplement to the current Craighead County Purchasing Policy regarding 2 CFR 200, Federal Uniform Guidance, specifically for the management of the \$11.4 million in regular SLFRF monies.

SECTION 1. Through guidance from consulting firm, AG Witt, the supplement regarding regular SLFRF Purchasing and Procurement Policies is needed to manage federal funds and to ensure compliance with federal regulations. Decisions concerning federal funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and appearance.

SECTION 2. The supplemental Treasury State and Local Fiscal Recovery Funds (SLFRF) County Federal Procurement and Purchasing Policy is being adopted by reference. A copy of the Treasury State and Local Fiscal Recovery Funds (SLFRF) County Federal Procurement and Purchasing Policy is attached and shall be filed in the office of the Craighead County Clerk, upon passage of this Ordinance. This supplemental Treasury State and Local Fiscal Recovery Funds (SLFRF) County Federal Procurement and Purchasing Policy shall be in effect for the regular SLFRF monies only.

Dated this 19th day of December 2022.

Approved: 
Marvin Day
Craighead County Judge

Attest: 
Lesli Penny
Craighead County Clerk

This publication was paid for by the Craighead County Clerk, cost of this publication \$ _____.

Treasury State and Local Fiscal Recovery
Funds (SLFRF) – County Federal
Procurement and Purchasing Policy

Craighead County, AR
As of November 8, 2022

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Treasury State and Local Fiscal Recovery Funds (SLFRF) – County Federal Procurement and Purchasing Policy

I. Introduction

The County have adopted methods for the procurement of goods and services and sets forth the requirements provided by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations at 2 CFR 200.

Uniform Guidance (2 CFR 200): The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the Uniform Guidance), published by the Office of Management and Budget, sets forth procurement standards that apply to direct federal funding received by a county or subrecipient. The procurement standards are contained in 2 CFR 200, Subpart D - Post Federal Award Requirements.

This document is intended to assist with procurement policies, regulations, and procedures, and to promote economy, efficiency, and effectiveness in acquisition processes.

The 2 CFR 200 Procurement and Purchasing Requirements set forth in this document only apply to expenditures made with Non-Revenue Replacement Funds from the State and Local Fiscal Recovery Funds (SLFRF) Program. However, this document may be modified to apply to other federal programs, based on the program's federal policy and 2CFR200 requirements.

The U.S Department of Treasury has provided recipients with an allowance of up to \$10 million dollars of their total SLFRF allocation to be used as revenue replacement funds. The procurement and purchasing policies and procedures for SLFRF Revenue Replacement shall follow the County's normal procurement and purchasing processes in accordance with County and State laws and regulations.

When federal procurement and purchasing requirements conflict with state or local procurement and purchasing requirements, the most restrictive requirement shall be followed. This document will note when the state requirement is more restrictive than the federal requirement related to informal and formal procurement method expenditure amount thresholds.

II. General Procurement Standards for Purchases and Procurement Involving Federal Funds

The purpose of this document is to establish guidelines that meet or exceed the procurement requirements for purchases of goods, services, and construction projects involving use of federal funds. It is designed to assist the County in maintaining compliance

with requirements of the "Uniform Guidance" or 2 CFR Part 200, Cost Principles, Audit Requirements for Federal Awards, state procurement laws and regulations, and County policies.

A. Purchasing and Procurement Responsibilities of County Government

The County is responsible for good administrative practice and sound business judgment related to the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the County of any contractual responsibilities under its contracts. Therefore, violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

1. County purchases involving use of federal funds shall be conducted in compliance with 2 CFR 200 Federal Uniform Guidance, unless otherwise directed by the federal awarding agency. 2 CFR 200 Federal Uniform Guidance provisions can be found here.
2. It is the responsibility of the County to refer to the federal awarding agency guidance and policy to determine the specific provisions of the Uniform Guidance that apply for each respective federal assistance program.
3. Ensure the cost of procurement or a purchase is reasonable per Reasonable Costs - 2 CFR 200.404 requirements, Arkansas Code Title 14, Local Government, Subtitle 2 Local Governments, Chapter 22 County Purchasing Procedures, and State of Arkansas Procurement Standards.
4. For federal funds received via the state, the County shall refer to the state administrating agency that sub-awarded the federal funds for any federal compliance requirements that may apply.
5. The County is required to establish written policies and procedures for the purchase of equipment, materials, supplies (goods), and services to:
 - a. Ensure compliance with all federal, state, and local procurement laws and regulations
 - b. Ensure established written policy for purchases at the lowest possible cost commensurate with the quality needed.
 - c. Ensure written policy for effective financial control over purchases.
 - d. Establish written policy to define authority for awarding contracts.
 - e. Establish written policy to ensure the quality of purchases.
 - f. Encourage full and open competition.
 - g. Establish roles and responsibilities for transacting business.

B. General Procurement Standards (2 CFR 200.318)

This section of the purchasing policies and procedures documents establishes ethical standards that apply to all purchases made by the County's Purchasing Department, department programs independent of the Purchasing Department by employees, directors, officers, or agents. Purchases may also be subject to prior funding source approval and additional requirements imposed by grants or contracts.

i. Codes of Conduct

All county employees and elected officials are responsible for impartially assuring fair competitive access to County procurement opportunities by responsible suppliers and contractors. In addition, all employees and elected officials shall conduct themselves in a manner that avoids any impropriety, or appearance of impropriety, and that fosters the highest level of public confidence in the integrity of the County's purchasing system. The following standards govern the actions of County employees engaged in the selection, award, and administration of contracts.

1. 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.
2. 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 county or subrecipient 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.
3. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the county or subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
4. An "organizational conflict of interest" is created because of a relationship the County has with an affiliate or subsidiary organization that participates in the transaction.
5. Employees and elected officials who participate in the review and evaluation of vendor proposals are bound by the County Government Ethics Provisions in Arkansas Code and 2 CFR 200.318(c). County employees and elected officials who participate in procurement should conduct their personal and business affairs in a manner such that neither a conflict, nor the appearance of a conflict arises between their interests and the interest of County.
6. Employees and elected officials cannot obligate the County, financially or otherwise, by any means including, but not limited to, purchase orders and contracts, when the employee or elected officials, or a member of employee's immediate family, has a personal, material, financial or other interest in the obligation.
7. County employees and elected officials cannot accept any form of gratuity in any amount for themselves, their families (spouses, parents, children, sisters, Brothers-in-laws, etc.) or others from any vendor including but not limited to contractors, consultants, subcontractors, suppliers, etc. who are now furnishing or desiring to furnish goods or services to County in the future.
8. County employees and elected officials **MUST NOT** accept discounts, reward points, sales, reduced prices, or other benefits offered for personal purchases by suppliers because of the employee's or elected official's relationship with the County.
9. Relatives of Purchasers shall not participate in the selection, award, or administration of a contract. Relatives of Purchaser means any immediate family member (spouse, child, parent, parent-in-law, sibling, or sibling-in-law); partner; or an organization that employs, or is about to employ, any of the above has a direct or indirect financial or other interest in or will receive a tangible personal benefit from a firm or individual considered for the contract award.

Note: County employees and elected officials will be held personally liable for any unauthorized procurements.

ii. Conflicts of Interest Policy

As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflicts-of-interest policy consistent with 2 C.F.R. § 200.318(c), 2 C.F.R. § 200.112, and Treasury SLFRF Final Rule pg. 4400 that is applicable to all activities funded with the SLFRF award. Decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance.

1. A recipient may not use control over SLFRF funds for their own private gain. Furthermore, 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.
2. Recipients and subrecipients are required to establish policies and procedures to manage potential conflicts of interest and are required to report to Treasury any potential conflict of interest related to procurement and awarding of contracts per 2 C.F.R. § 200.318(c)
3. Recipients and subrecipients must disclose in writing to U.S. Department of Treasury or the pass-through agency, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 CFR 200.112.
4. Recipients may avoid conflicts of interest in helping non-profits or making subrecipient awards by making aid available to non-profits on applicable terms or utilizing a competitive grant process, respectively.
5. Consistent with this policy, elected officials are prohibited from using their official position and control over SLFRF funds for their own private gain. This policy also prohibits, among other things, elected officials from steering funds to projects in which they have a financial interest or using funds to pay themselves premium pay.

iii. Disciplinary Actions for Violations

The following section satisfies the 2 CFR § 200.318 to establish disciplinary actions associated with violations of this standard of conduct.

1. An employee or elected officials who violates any of the regulations in this part will be disciplined. The disciplinary action may be in addition to any other penalty prescribed by law for the violation. In addition to, or in lieu of, disciplinary action, remedial action to end conflicts or appearance of conflicts of interest may include, but is not limited to:
 - a. Any alleged violations will be investigated by legal counsel for review and appropriate actions if violations have occurred.
 - b. Change in assigned duties or disqualification of a particular assignment.
 - c. Whether disciplinary or otherwise, shall be affected in accordance with any applicable laws, executive orders, and regulations.
2. It is unlawful for any county government official or employee to be interested, directly or indirectly, in any financial contract or transaction of the county or an entity created by the county.
3. Any person or official who intentionally violates the provisions of this chapter upon conviction shall be fined in any amount not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). In addition thereto, he or she may be

removed from his or her office or position of employment with the county. (Arkansas Code Title 14, Local Government § 14-22-103. Fines and removal)

iv. County Authority to Make Purchases and Award Contracts

This section of the purchasing policies and procedures outlines the contract award authority levels established under the County's purchasing system.

Arkansas Code Title 14, Local Government § 14-22-101 (6) defines "Purchasing official" as any county official, individual, board, or commission, or his or her or its lawfully designated agent, with constitutional authority to contract or make purchases on behalf of the county.

1. **Authority for making purchases and entering into contracts.** Per ACA 14-14-1102(b), The county judge shall have the authority to enter into necessary contracts or other agreements to obligate county funds and to approve expenditure of county funds appropriated therefore in the manner provided by law.
2. The county judge of each county may promulgate appropriate administrative rules and regulations after notice and hearing thereon, for the conduct of county financial affairs.
3. The administrative rules and regulations shall be consistent with the provisions of laws relating to financial management of county government and the appropriate ordinances enacted by the quorum court.
4. All such administrative rules and regulations adopted after hearings by the county judge shall be certified by the county judge and filed in the office of the county clerk to be open to public inspection at all normal hours of business.
5. **Authority to Legally Bind the County.** Unless specifically authorized as established in this section or elsewhere in County policy, staff other than the County Judge or designated county personnel, cannot enter contractual arrangements to purchase goods or services or otherwise legally bind the County for such purchases.
6. **Delegated Award Authority.** Delegated award authority specifically applies to the granting of authority in writing by the Quorum Court of Craighead County or the Purchasing Agent or to designated personnel to award/sign contracts that legally bind the County.

III. Federal Procurement Process Requirements

This section describes the federal requirements related to procurement of contracts and contractor selections that are required to be followed during the solicitation and contracting process, unless otherwise provided.

All employees and elected officials participating in County procurement processes, as well as subrecipients of county sub awarded federal grant funds, must adhere to the requirements below:

A. Competition

As outlined in (2 CFR 200.319) all procurements shall be conducted in a full and open competitive solicitation process for the procurement of goods and/or services, unless the procurement meets requirements for exceptions to full competitive procurement.

i. Restrictions Against Noncompetitive Bidding

1. 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:

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

ii. Exemptions Allowing Noncompetitive Procurement

Per 2 CFR 200.320(c), 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 (for Arkansas this is \$20,000).
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. After solicitation of several sources, competition is determined inadequate.

iii. Prohibition of Geographic Preferences

Procurement procedures must prohibit 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.

iv. Exemption related to Prohibition of Geographic Preferences for Architectural and Engineering Services

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.

v. Required Written Procedures for Procurement Transactions

The county or subrecipient 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.

vi. Prequalified Lists of Vendors, Contractors, or Persons

The county or subrecipient 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 county or subrecipient must not preclude potential bidders from qualifying during the solicitation period.

vii. Promoting Competition for Minority Owned, Women Owned, and Small Business Vendors (2 CFR 200.321).

The County is committed to taking all necessary affirmative steps to assure contracting with small and minority businesses, women's business enterprises, and labor surplus area firms ("MWSB Vendors") are used whenever possible. Such steps 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 items (1) through (5) of this section.

B. Domestic Preference for Procurements (2 CFR 200.322)

This policy applies to all subawards, contracts, and purchase orders for work or products purchased with federal funds.

1. The County will go to the greatest extent practicable under a Federal award to 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).
2. For purposes of this section:
 - a. "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.
 - b. "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.

IV. Informal and Formal Procurement Methods Required for Use of Federal Funds (2 CFR 200.320 and State of Arkansas Procurement Manual)

The 2 CFR 200 sets specific requirements for each of five types of procurement: micro-purchases, small purchases, sealed bids, competitive proposals, and sole-source items.

This section establishes the County's procurement procedures consistent with the standards of Uniform Guidance 2 CFR 200.320 and Arkansas for the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

Arkansas Code Title 14. Local Government § 14-22-104. Purchases permitted states the following thresholds for formal bidding and open market purchases, as well as restricts splitting purchases to avoid hitting procurement requirement thresholds. Items (1) and (2)

are more restrictive than federal thresholds for formal and informal bidding and therefore apply to the use of federal funds. Procurements under \$20,000 shall be eligible for informal procurement procedures as described in 2 CFR 200. Item (3) aligns with federal requirements that purchases shall not be split to avoid more restrictive procurement requirements.

1. Formal bidding shall be required in each instance in which the estimated purchase price shall equal or exceed twenty thousand dollars (\$20,000);
2. Open market purchases may be made of any commodities where the purchase price is less than twenty thousand dollars (\$20,000); and
3. No purchasing official shall parcel or split any items of commodities or estimates with the intent or purpose to change the classification or to enable the purchase to be made under a less restrictive procedure.

A. Informal Procurement Methods

i. Micro-Purchases (Federal Procurement Requirements) and Small Orders (Arkansas State Procurement Standard)

Federal vs. State Procurement Standards

The federal threshold for micro-purchases is \$10,000 (48 CFR Part 2, Subpart 2.1, Micro-purchase Threshold)

The State of Arkansas sets the threshold for Informal Procurement as \$20,000.

Per (2 CFR 200.320 (2)(iv)), Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the following requirements:

1. The county or subrecipient 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.
2. 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.

Per 2 CFR 200.320 (2)(iv)(c), Craighead County may increase the Micro-purchase threshold to meet the Small Order threshold established by Arkansas State Procurement Standards for contracts where the prospective contractor is a Certified Minority-Owned Business or Certified Woman-Owned Business.

Method of Procurement To Be Followed

Federal Procurement Procedure: Micro-purchases may be awarded without soliciting competitive price or rate quotations if the county or subrecipient 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 county or subrecipient. (2 CFR 200.320 (1)(ii))

State Procurement Procedure: For Informal Procurement - No price quotes required. No public posting required. Arkansas Procurement Standards 2021, Typical Procurement Methods)

1. **Contractor Selection:** Based on state law policy, but competition should be used to the greatest extent possible. The County shall comply with Arkansas Code Title 14, Local Government § 14-22-108 through § 14-22-112 for all contractor evaluation and selection procedures.
2. **Discussion/Negotiation:** Requesting a lower cost is encouraged.
3. **Examples:** Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.
4. Ark. Code § 19-11-231

ii. **Small Purchases (Federal Procurement Requirements and Competitive Bid (Arkansas State Procurement Standard)**

Federal vs. State Procurement Standards

The federal threshold for small purchases is set by the simplified acquisition threshold which is \$250,000 (2 CFR 200.320 (2)(ii) and 48 CFR Part 2, Subpart 2.1, Simplified Acquisition Threshold).

Arkansas procurement standards sets the threshold for Competitive Bid as up to \$75,000.

Method of Procurement To Be Followed

The State of Arkansas defines the method of Competitive Bid as "Emailing Prospective Contractors to obtain at least 3 price quotes. No public posting is required." (Arkansas Procurement Standards 2021, Typical Procurement Methods). This method aligns with the method required by the federal government for small purchases (2 CFR 200.320 (2)(i)).

Federal Procurement Procedure: 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 county or subrecipient. (2 CFR 200.320 (2)(i)).

State Procurement Procedure: For Competitive Bid - Email Prospective Contractors to obtain at least 3 price quotes. No public posting required.

1. **Contractor Selection:** Based on state law policy, but competition should be used to the greatest extent possible. The County shall comply with Arkansas Code Title 14, Local Government § 14-22-108 through § 14-22-112 for all contractor evaluation and selection procedures.
2. **Discussion/Negotiation:** Requesting a lower cost is encouraged.
3. **Examples:** Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.
4. Ark. Code § 19-11-234

B. Formal Procurement Methods

When the value of the procurement for property or services using federal funds exceeds the simplified acquisition threshold, or a lower threshold established by a county or subrecipient, 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 2 CFR 200.319 or 2 CFR 200.320(c). See section above 3(A)(ii) for information on requirements for non-competitive procurement.

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 county or subrecipient determines to be appropriate.

For Craighead County, the State of Arkansas' threshold for formal procurement is defined as contracts/purchases totaling \$75,000 or more. This is lower than the federal simplified acquisition threshold of \$250,000. Therefore, the State's threshold is more restrictive and shall be followed for purchases/contracts using federal funds.

The following outlines the federal formal procurement methods to be followed that will be required for purchases and contracts totaling \$75,000 or more.

i. Arkansas Code Requirements applicable to Formal Procurements (Arkansas Code Title 14, Local Government § 14-22-101 (2))

"Formal bidding" means the procedure to be followed in the solicitation and receipt of sealed bids, wherein:

1. Notice shall be given of the date, time, and place of opening of bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening such bids;
2. Not less than ten (10) days in advance of the date fixed for opening the bids, notices and bid forms shall be furnished to all eligible bidders on the bid list for the class of commodities on which bids are to be received, and to all others requesting them; and
3. At least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid shall be posted in a conspicuous place in the county courthouse

ii. Arkansas Code Contractor Evaluation and Selection Requirements for Counties

Based on state law policy, but competition should be used to the greatest extent possible. The County shall comply with Arkansas Code Title 14, Local Government § 14-22-108 through § 14-22-112 for all contractor evaluation and selection procedures as applicable to the type and dollar amount of goods or services being procured.

iii. 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 with 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.

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. 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.

If sealed bids are used, the following requirements apply:

1. 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;
2. 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;
3. 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;
4. 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
5. Any or all bids may be rejected if there is a sound documented reason.

iv. 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:

1. 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;
2. The county/subrecipient must have a written method for conducting technical evaluations of the proposals received and making selections;
3. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the county or subrecipient, with price and other factors considered; and
4. The county or subrecipient 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.

V. Contract Cost and Price (2 CFR 200.324)

A. Cost and Price Analysis

The County or Subrecipient must perform a cost or price analysis in connection with every procurement action in excess of \$75,000 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 County or Subrecipient must make independent estimates before receiving bids or proposals.

B. Negotiations

The County or Subrecipient 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. Estimated Costs

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 County or Subrecipient under subpart E of this part. The County or Subrecipient may reference its own cost principles that comply with the Federal cost principles.

D. Construction Cost Methods

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

VI. Procurement of Recovered Materials (2 CFR 200.323)

The County or subrecipient 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.

VII. Bonding Requirements (2 CFR 200.326)

For construction or facility improvement contracts or sub-contracts exceeding the \$75,000, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the County or Subrecipient 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:

1. 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.
2. 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.
3. 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.

VIII. Property Standards

A. Insurance Coverage (2 CFR 200.310)

The County or Subrecipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the County or Subrecipient. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

B. Real Property (2 CFR 200.311)

i. Vesting of Title

The title to real property acquired or improved under a Federal award will vest upon acquisition in the County or Subrecipient.

ii. Use

Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the County or Subrecipient must not dispose of or encumber its title or other interests.

iii. Disposition

When real property is no longer needed for the originally authorized purpose, the County or Subrecipient must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the County or Subrecipient is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
2. Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the County or Subrecipient is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
3. Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The County or Subrecipient is entitled to be paid an amount calculated by applying the County or Subrecipient's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

C. Federally-owned and exempt property (2 CFR 200.312)

1. Title to federally-owned property remains vested in the Federal Government. The County or Subrecipient must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the County or Subrecipient must report the property to the Federal awarding agency for further Federal agency utilization.
2. If the Federal awarding agency has no further need for the property, it must declare the property excess and report it for disposal to the appropriate Federal disposal authority, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and nonprofit organizations in accordance with Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century."). The Federal awarding agency must issue appropriate instructions to the County or Subrecipient.
3. Exempt property means property acquired under a Federal award where the Federal awarding agency has chosen to vest title to the property to the County or Subrecipient without further responsibility to the Federal Government, based upon the explicit terms and conditions of the Federal award. The Federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the Federal award, title to exempt property acquired under the Federal award remains with the Federal Government.

D. Equipment (2 CRF 200.313)

i. Title

Subject to the requirements and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the County or Subrecipient. Unless a statute specifically authorizes the Federal agency to vest title in the County or Subrecipient without further responsibility to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the County or Subrecipient subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
2. Not encumber the property without approval of the Federal awarding agency or pass-through entity.
3. Use and dispose of the property in accordance with "Use Requirements" and "Management Requirements" of this section.

ii. Use Requirements

Equipment must be used by the County or Subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the County or Subrecipient must not encumber the property without prior approval of the Federal awarding agency.

The Federal awarding agency may require the submission of the applicable common form for equipment. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

1. Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

During the time that equipment is used on the project or program for which it was acquired, the County or Subrecipient must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired.

First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

Notwithstanding the encouragement in 2 CFR 200.307 to earn program income, the County or Subrecipient must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically

authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

When acquiring replacement equipment, the County or Subrecipient may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

iii. Management Requirements

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

1. Property records must be maintained that include a description of the property; a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. If the County or Subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

iv. Disposition

When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the County or Subrecipient must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award.

Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

1. Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further responsibility to the Federal awarding agency.
2. Except as provided in § 200.312(b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained by the County or Subrecipient or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the County or Subrecipient to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

3. The County or Subrecipient may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the County or Subrecipient must be entitled to compensation for its attributable percentage of the current fair market value of the property.
4. In cases where a County or Subrecipient fails to take appropriate disposition actions, the Federal awarding agency may direct the County or Subrecipient to take disposition actions.

E. Supplies (2 CFR 200.314)

i. Title

Title to supplies will vest in the County or Subrecipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the County or Subrecipient must retain the supplies for use on other activities or sell them; but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See § 200.313 (e)(2) for the calculation methodology.

ii. Use

As long as the Federal Government retains an interest in the supplies, the County or Subrecipient must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

F. Intangible Property (2 CFR 200.315)

iii. Title

Title to intangible property (see definition for Intangible property in § 200.1) acquired under a Federal award vests upon acquisition in the County or Subrecipient. The County or Subrecipient must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in § 200.313 (e).

iv. Copyright

The County or Subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

v. Patents and Inventions

The County or Subrecipient is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements."

vi. Federal Government's Rights

The Federal Government has the right to:

1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

vii. Freedom of Information Act (FOIA)

In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the County or Subrecipient must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the County or Subrecipient. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

Published research findings means when:

1. Research findings are published in a peer-reviewed scientific or technical journal; or
2. A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. "Used by the Federal Government in developing an agency action that has the force and effect of law" is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.
3. Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also do not include:
 - a. Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
 - b. Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

G. Property Trust Relationship

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the County or Subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the County or Subrecipient to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

IX. Contract Provisions (2 CFR 200.327 and 2 CFR 200 Appendix II)

The County's or Subrecipient's contracts must contain the applicable provisions described below:

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity 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 non-Federal entity 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 non-Federal entity 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 non-

Federal entity 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 non-Federal entity 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 governmentwide 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 2 CFR 200.323
- K) See 2 CFR 200.216

L) See 2 CFR 200.322

X. Appendix A: Cooperative Purchasing and Joint Procurements

A. Cooperative Purchasing Overview

A "cooperative purchasing program" is a cooperative arrangement for acquiring goods or services that involves aggregating the demand of two or more entities in an effort to obtain a more economical purchase.

Entities typically sign up to use cooperative purchasing programs through a cooperative purchasing agreement. Program membership may provide entities with access to lists of agreements or contracts for goods and services at pre-negotiated rates or prices. Typically, the member then purchases the goods or services by negotiating with participating vendors and placing purchase orders or entering into contracts based on the rates or prices listed in the cooperative purchasing program's agreements or contracts with vendors.

If the County or subrecipients decide to use a cooperative purchasing program, they must document and explain how its use of the program complied with all federal procurement standards and applicable state and local procurement rules and policies.

B. Arkansas State Policy for Counties' Use of Cooperative Purchasing

COOPERATIVE PROCUREMENT – CITIES AND COUNTIES

The Office of State Procurement (OSP) has authority over the procurement practices of State Agencies only. One of OSP's primary functions is to research frequently purchased items and items where the formulation of a Statewide contract would bring the best value to the State. Arkansas cities and counties are allowed by law to purchase off these Statewide contracts but are not required to do so.

Cities and counties function under separate laws, ACA §14-58-303 (city) and ACA §14-22-101 thru §14-22-115 (county), which give authority to their respective governing boards. What a city or county can do in the procurement arena depends on these laws and the guidelines and authority formulated by its governing body.

If a city or county is approached by a vendor who has a contract with a Cooperative Entity (such as US Communities, TIPS/TAPS, NJPA, NIPA, etc.), its administration should review the contract to see if it meets that cities or counties procurement requirements and provides the best value. If the Cooperative's process meets these requirements, then it may be used by the city or county.

Cooperative agreements should not be used just for convenience. A city or county should determine whether a particular Cooperative contract provides the best value to the buying entity. If not, the buying entity should issue its own solicitation.

If OSP approves a specific contract that was solicited by a Cooperative, the approval is only for that particular contract, and not for all contracts awarded by the Cooperative. In other words, it is not a blanket approval for all contracts awarded by that particular Cooperative.

When OSP approves a particular Cooperative contract, it will be posted on the OSP website under Statewide Contracts.

C. Joint Procurement Overview

Cooperative purchasing programs are distinguishable from joint procurements. A "joint procurement" is a method of contracting in which two or more purchasers agree from the outset to use a single solicitation and enter into a single contract with a vendor for the delivery of goods and/or services.

While the federal procurement standards encourage the use of cooperative purchasing where appropriate, the County and subrecipients should exercise caution when using such programs and work closely with the procuring entity to ensure compliance with the federal procurement standards found at 2 C.F.R. §§ 200.318- 200.326.