

# 2 Years after EDGAR:

## Implementing EDGAR: Systems and controls to comply with CFR 200 guidelines



**School Finance Council**  
**Sept 22, 2017**

Jesus J. Amezcua, Ph.D., CPA, RTSBA

# Edgar impact on my family!



# As of information.....

Information provided to you is as of  
**August 10, 2017**

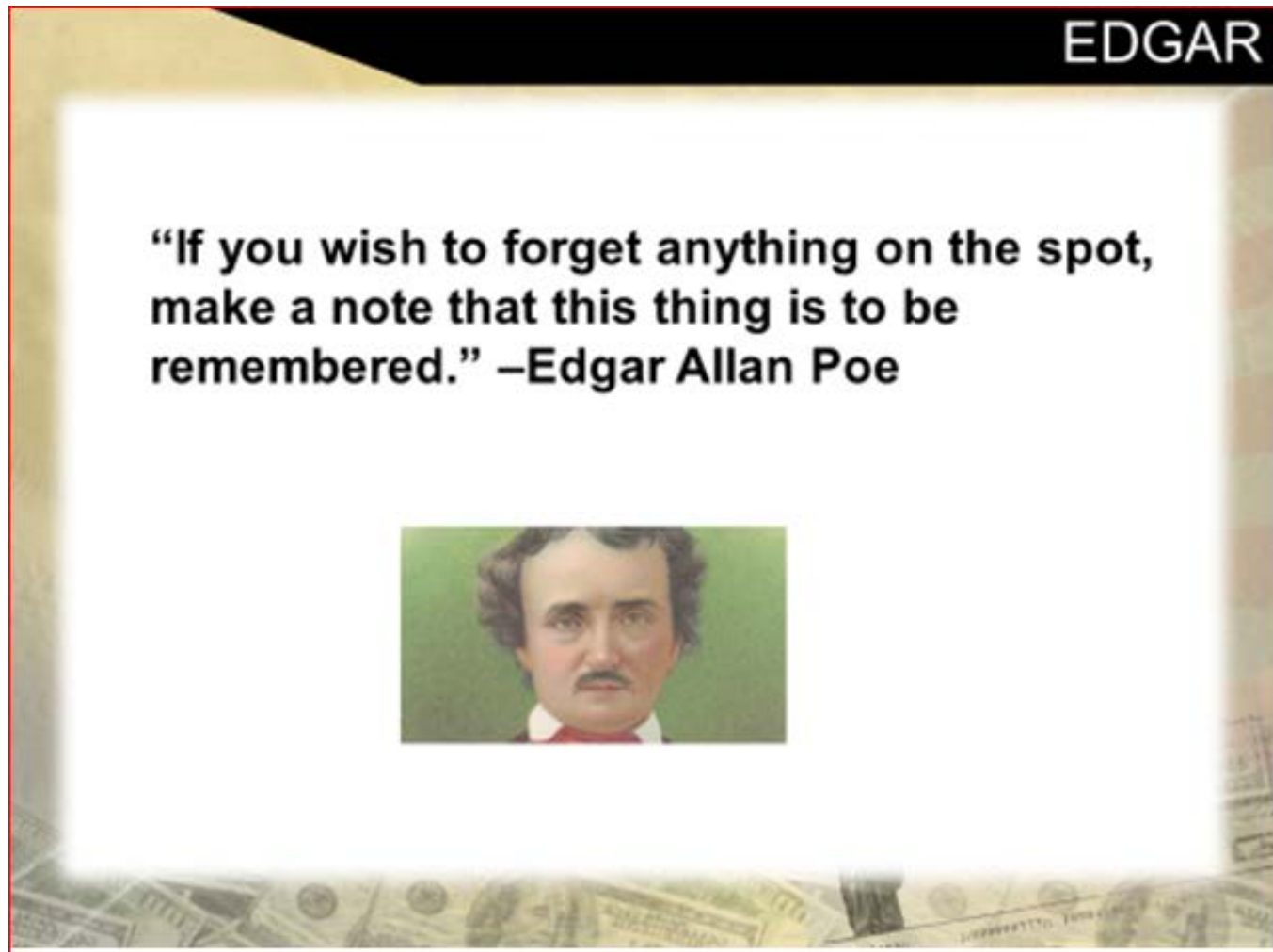
Information source is from **cfr 200** as posted on  
the federal website and the **TEA budgeting cost**  
**guidance handbook.**

# When looking at EDGAR:

1. Look at your Grant NOGA and specific Grant Award
2. Look at the cfr 200 federal regulations
3. Look at FAQ from TEA first and then FAQ Federal
4. Look at implications on state law (CH Legal)
5. Look at implications of your local law (Ch Local)



# Something to remember!



# Financial Management Overview

## Uniform Grant Guidance

- **HCDE** follows the uniform grant guidance (UGG) as approved by the federal government on **December 2014**.
- Any updates from the Office of Management and Budget will be incorporated into **our Financial Operating Guide (FOG) and grant manual** as applicable from the respective granting federal agency.

# The EDGAR Experience

- The uniform grant guidance includes adhering to all applicable areas and in specific with **title 2 of the federal code regulations subtitle A, Chapter II, Part 200**. The contents include the following:
- **Subpart A** are the definitions 200.0 to 200.99 (**HCDE**)
- **Subpart B** are general provisions 200.100 to 200.113 (**HCDE**)
- **Subpart C** are pre award requirements and contents of federal awards – (granting agency)
- **Subpart D** are the [Post Federal Award Requirements](#)(granting Agency)
- [Subpart E](#) are the [Cost Principles](#) (**HCDE**)
- **Subpart F** are the Audit requirements (**Auditor-HCDE**)

As described in §200.110 Effective/applicability date, **this part supersedes the following OMB guidance documents and regulations** under Title 2 of the Code of Federal Regulations:

- (a) A-21, “Cost Principles for Educational Institutions” (2 CFR part 220);
- **(b) A-87, “Cost Principles for State, Local and Indian Tribal Governments” (2 CFR part 225) and also Federal Register notice 51 FR 552 (January 6, 1986);**
- (c) A-89, “Federal Domestic Assistance Program Information”;
- (d) A-102, “Grant Awards and Cooperative Agreements with State and Local Governments”;
- (e) A-110, “Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations” (codified at 2 CFR 215);
- (f) A-122, “Cost Principles for Non-Profit Organizations” (2 CFR part 230);
- **(g) A-133, “Audits of States, Local Governments and Non-Profit Organizations ”; and**
- (h) Those sections of A-50 related to audits performed under Subpart F—Audit Requirements of this part.
- [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75882, **Dec. 19, 2014**]

# So Dec 26, 2017 is the new effective date

200.317

To

200.326

ONLY

**SUMMARY:** The Office of Management and Budget (OMB) is updating the final guidance that appeared in the **Federal Register** on December 26, 2013. Guidance on the effective/applicability date is revised to allow a grace period of one additional fiscal year for non-Federal entities to implement changes to their procurement policies and procedures in accordance with guidance on procurement standards. Other requirements in the section remain unchanged.

**DATES:**

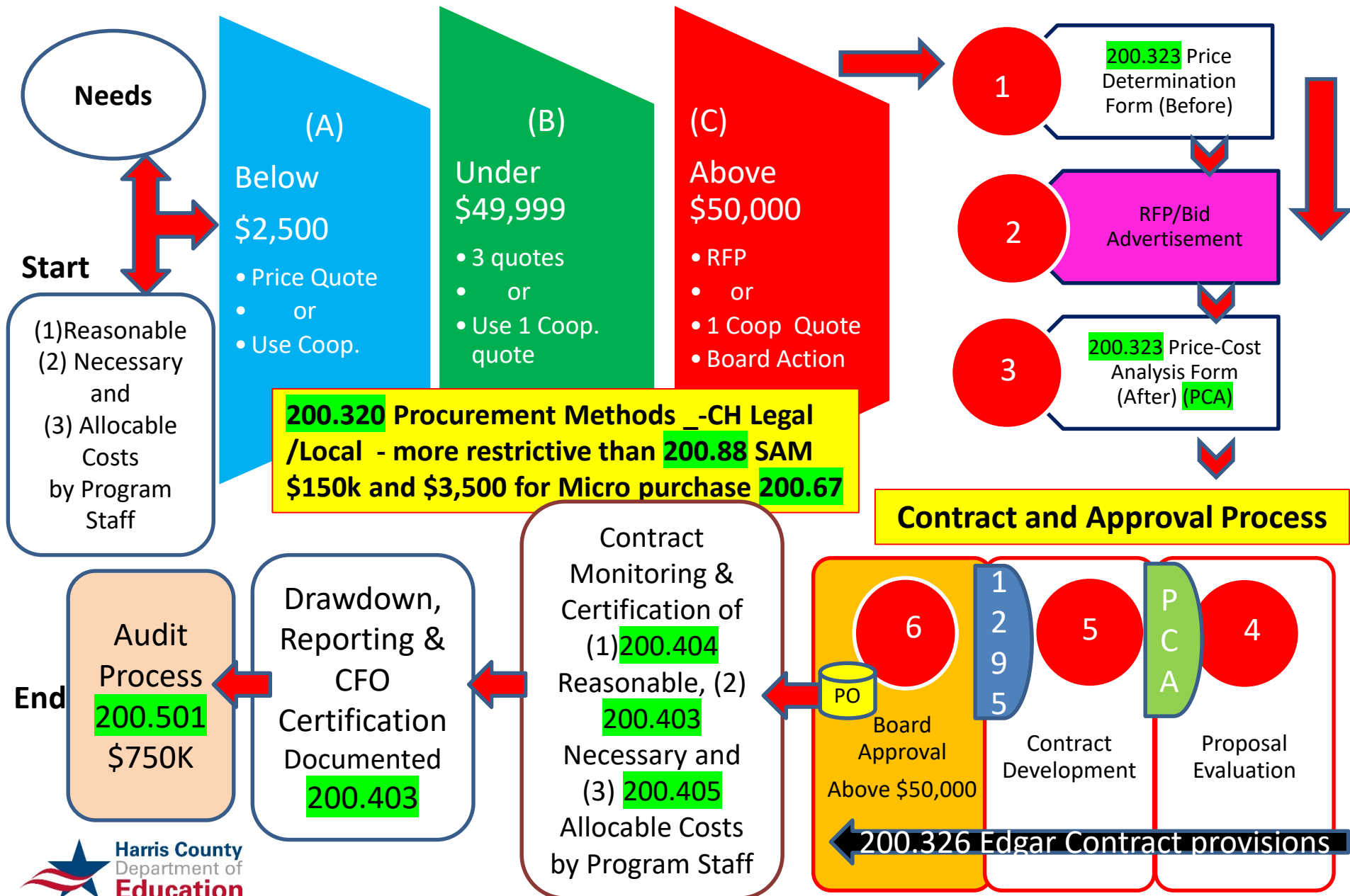
*Effective date:* May 17, 2017.

*Implementation date:* For all non-Federal entities, there is an additional one-year grace period for implementation of the procurement standards in 2 CFR 200.317 through 200.326. This means the grace period for non-Federal entities extends through December 25, 2017, and the implementation date for the procurement standards will start for fiscal years beginning on or after December 26, 2017.



A number of items from **Subpart A- Definitions** are required to be reviewed:

- Micro Purchase <\$3,500
- Simplified acquisition Threshold <\$150,000
- Sealed bids >\$150,000 construction
- Competitive Proposals >\$150,000





# So, If you choose to EDGAR



# 2 CFR 200 Website

[http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

## §200.67 Micro-purchase.

*Micro-purchase* means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its **lowest-dollar small purchase transactions** and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is **\$3,500** except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

**NOTE: HCDE uses a more restrictive threshold under admin procedure set at (\$2,500) – Depends on your authority?**

## § 200.88 Simplified acquisition threshold.

*Simplified acquisition threshold* means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities **adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold.** The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is **\$150,000**, but this threshold is periodically adjusted for inflation. (Also see definition of §200.67 Micro-purchase.)

**NOTE: HCDE uses a more restrictive threshold under policies CH Legal and CH Local set at (\$50,000)**

# §200.28 Cost objective.

*Cost objective* means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc.

A cost objective may be a major function of the non-Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity, as described in Subpart E—Cost Principles of this Part. See also §§200.44 Final cost objective and 200.60 Intermediate cost objective.

**Having cost objectives in mind are important because costs must be allocated to cost objectives.**

**HCDE has developed allocation plans when charging to multiple cost objectives. See Adult Ed Plan.**

# §200.61 Internal controls.

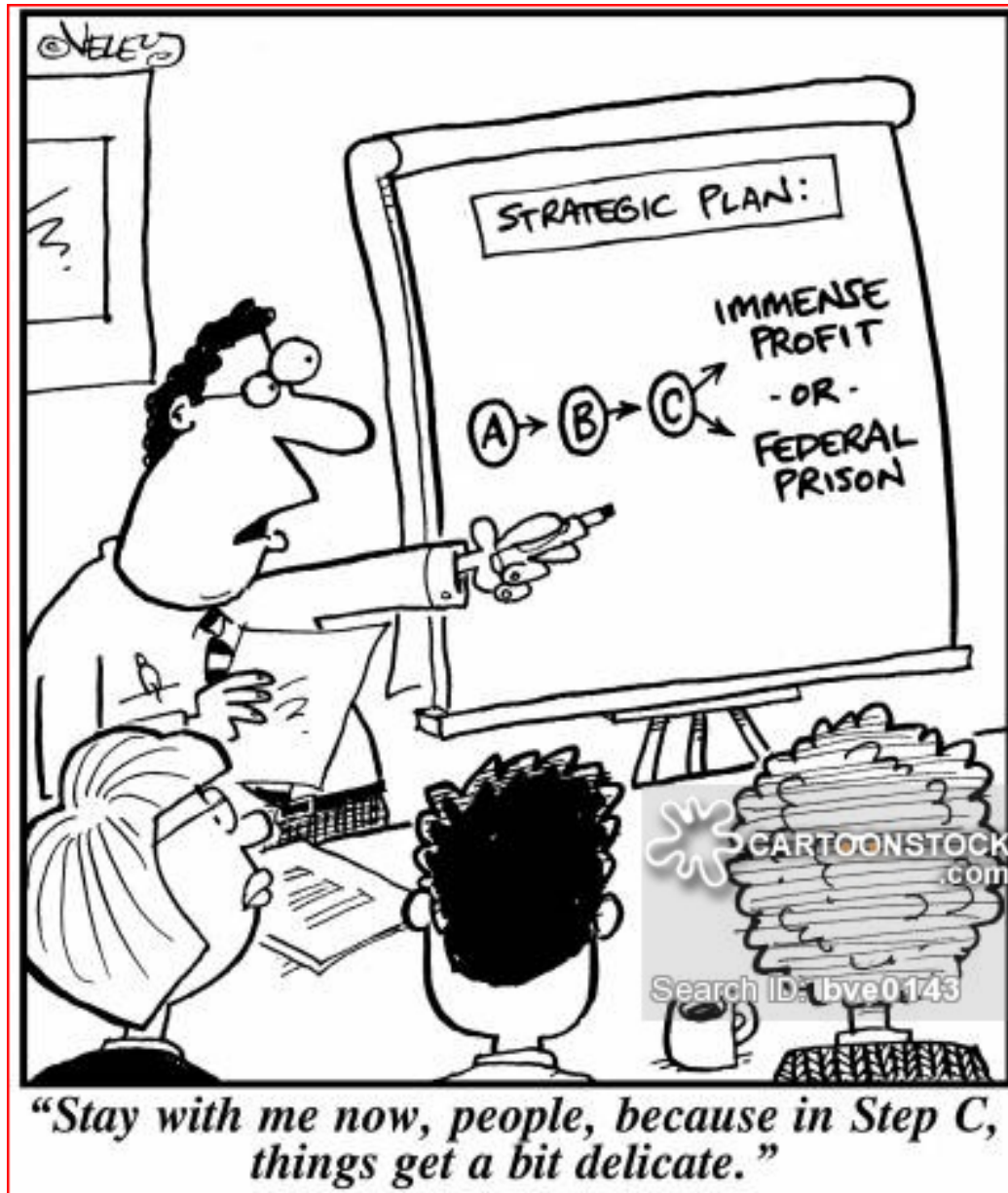
*Internal controls* means a process, implemented by a non-Federal entity, designed to provide **reasonable assurance** regarding the achievement of objectives in the following categories:

- (a) Effectiveness and efficiency of operations;
- (b) Reliability of reporting for internal and external use; and
- (c) Compliance with applicable laws and regulations.

- **HCDE has implemented a risk assessment and fraud assessment process to evaluate the effectiveness of internal controls.**
- **This is conducted every six months and reviewed by executive team administration.**
- **(State Audit)**



# The rationale for Internal Controls?



# §200.74 Pass-through entity.

*Pass-through entity* means a non-Federal entity that provides a sub-award to a sub-recipient to carry out part of a Federal program.

**Most ISDs will not have pass through entities. Instead they could be sub recipients.**

**EDGAR applies if you are awarded a sub recipient award – i.e. 21<sup>st</sup> century grant – head start, adult ed, etc. - CASE**

# Subpart B- General Provisions

## §200.112 Conflict of interest.

The Federal awarding agency must establish **conflict of interest policies** for Federal awards. The non-Federal entity must **disclose in writing** any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

**HCDE has drafted a sample CH Local amendment, adjusted internal conflict of interest forms and procedure, evaluations forms, rfp templates and contract templates.**  
**(Survey- for RFPs)**



# Subpart C-Pre-Federal Award requirements

## §200.212 Suspension and debarment.

Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations **restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or** otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

[79 FR 75883, Dec. 19, 2014]

Principals and Vendor

**HCDE has a procedures for verifying debarment of all payments during the purchasing and contracting cycle.**  
**(Know anyone)**

# Subpart D-Post Federal Award Requirements

## **§200.317** Procurements by states.

When procuring property and services under a Federal award, a state **must follow the same policies and procedures it uses for procurements from its non-Federal funds.** The state will comply with §200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes **any clauses required by section §200.326 Contract provisions.** All other non-Federal entities, including sub-recipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

**HCDE has procedures in place to adhere to procurement laws as required by the State of Texas. This is documented through CH Legal and FASRG.**



## §200.318 General procurement standards.

(a) The non-Federal entity must **use its own** documented procurement procedures which reflect **applicable State, local**, and tribal laws and regulations, provided that the procurements **conform to applicable Federal law** and the standards identified in this part.

(b) Non-Federal entities must maintain **oversight** to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

**HCDE has procedures in place to meet requirements through CH Local and Financial Operating Procedures which are updated annually.**

# §200.318 General procurement standards.

## CIQ

- c)(1) The non-Federal entity must maintain **written standards of conduct** covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. **No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.** The officers, employees, and agents of the non-Federal entity 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**. The standards of conduct must provide for **disciplinary actions** to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
- (2) If the non-Federal entity has a **parent, affiliate, or subsidiary organization that is not a state, local government**, or Indian tribe, the non-Federal entity **must also maintain written standards of conduct** covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

## **§200.318** General procurement standards.

**HCDE has implemented procedures to notify staff that Conflict of Interest rules apply IF they select, recommend, evaluate or award a contract.**

**CH Local includes discipline action for non compliance.**

## §200.318 General procurement standards.

- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. **Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.** Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, **the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. (INTERLOCAL AGREEMENTS)**
- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

## **§200.318 General procurement standards.**

**HCDE is a local government which operates cooperative programs and shared service arrangements for the purpose of providing services and cost savings to school districts.**

**HCDE is able to contract with ISDs through the authority under TEC 44.031(a)(4) / Ch. 791 of the Tex. Gov't Code.**

## §200.318 General procurement standards.

- (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor **integrity, compliance with public policy, record of past performance, and financial and technical resources**. See also §200.212 Suspension and debarment.
- (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: **rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.**



August 2, 2017

To Any Interested Party

Re: HCDE/Choice Partners' compliance with applicable laws

To whom it may concern:

Harris County Department of Education ("HCDE"), a county school district and local governmental entity, operates a cooperative purchasing program, Choice Partners. I am writing to certify that HCDE and its Choice Partners ("CP") division makes every effort to comply with all applicable laws, including the Education Department General Administrative Regulations ("EDGAR") and all regulations applicable to procurements conducted on behalf of school nutrition programs, including the Buy American Act.

Because at the time of procurement, HCDE/Choice Partners is unable to determine which of its procurements/contracts will be used by CP members using federal funds, HCDE/Choice Partners competitively procures each and every contract awarded by HCDE/Choice Partners under Section 44.031 of the Texas Education Code and includes required EDGAR language for every procurement action. All procurement documents include EDGAR Certification Forms for future contracts, and vendors with existing contracts have received EDGAR Certification Forms to complete and return to Choice Partners. Additionally, Choice Partners' vendors must retain all financial records, supporting documents, and statistical records for a period of three years, and vendors must certify compliance with EDGAR's record retention requirements at the time of the contract.

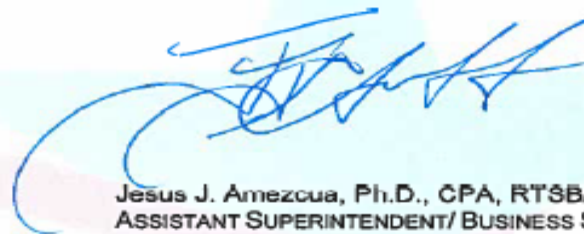
Similarly, Choice Partners makes every effort to ensure that its procurement documents and contracts comply with and include the provisions required by the Texas Department of Agriculture relating to school nutrition programs. The contractual terms and conditions included in HCDE/Choice Partners' procurement solicitations specifically mandate that HCDE/CP and the vendor comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including the Buy American Act, the Davis-Bacon Act, and other state and federal laws.

HCDE/Choice Partners maintains records detailing its procurement histories, such as records reflecting the rationale for the method of procurement, the selection of contract type, the contractor selection or rejection, and the basis for the contract price. Choice members may use these records to verify HCDE/Choice's compliance with applicable procurement rules. Some procurement obligations, however, may be difficult to comply with at the cooperative level; as such, Choice members are advised to review the procurement requirements applicable to their specific purchase and ensure that all obligations have been satisfied. For example, Choice will provide its completed Independent Estimate Determination Form and Determination of Cost or Price

Reasonableness Form, completed pursuant to EDGAR, to Choice members upon request, but Choice Partners recommends that when circumstances necessitate separate evaluation of lump-sum pricing, Choice members also conduct an independent evaluation of cost or price reasonableness tailored to the Choice member's specific purchases so that the Choice member can independently determine the reasonableness of the cost/price of the particular purchase.

HCDE and its Choice Partners division give the utmost care and importance to ensuring compliance with applicable laws, rules, and regulations. Should you have any questions regarding HCDE's compliance with applicable laws, please do not hesitate to contact me at [jamezcua@hcde-texas.org](mailto:jamezcua@hcde-texas.org) or 713-696-1371.

Very truly yours,



Jesus J. Amezcua, Ph.D., CPA, RTSBA  
ASSISTANT SUPERINTENDENT/ BUSINESS SERVICES  
HARRIS COUNTY DEPARTMENT OF EDUCATION

# Hot topics –Procurement

## Working with cooperatives

- Letter of assurance that internal controls have been in place to comply with CFR 200
- EDGAR Certifications forms
- Catalogue Purchases – Evaluate based on a basket and then make a decision and complete the analysis and estimates form
- Renewals – Prepare Before and After form – rather than rebid.
- Debarment and principals check [www.saw.gov](http://www.saw.gov)
- State New requirements for HB89 and SB252 for new prohibitions under Government Code
- Certification employment assistance to anyone who has engaged in sexual misconduct with a minor

## **§200.318 General procurement standards.**

**HCDE uses policies CH legal and CH Local which identify the factors in determining the best value and the method of procurement and contract. HCDE also has operating guidelines covering the procurement process.**



KEEP  
CALM  
BY  
FOCUSING ON  
EDGAR

## §200.318 General procurement standards.

- (j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. **Time and materials** type contract means a contract whose cost to a non-Federal entity is the sum of:
  - (i) The actual cost of materials; and
  - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a **ceiling price that the contractor exceeds at its own risk**. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

## §200.318 General procurement standards.

- (k) **The non-Federal entity alone must be responsible**, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited **to, source evaluation, protests, disputes, and claims**. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.
- [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

**HCDE has financial operating procedures which address evaluations, protests, disputes and claims.**

# §200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing **full and open competition** consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

**HCDE uses policies CH legal and CH Local which identify the factors in determining the best value and the method of procurement and contract. HCDE also has operating guidelines covering the procurement process.**



# §200.319 Competition.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal **geographical preferences** in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

**HCDE uses policies CH legal and CH Local which identify the factors in determining the best value and the method of procurement and contract. While policy CH Legal has a local preference meaning the state of Texas, it does not apply to federal purchases in accordance with Government Code 2251.001-004.**

# §200.319 Competition.

- (c) The non-Federal entity **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.
- (d) The non-Federal entity 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 non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.
- [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

**HCDE develops all requests for proposals internally and does not allow a consultant or external entity to participate in the development of request for proposals.**

# Rules?



# §200.320 Methods of procurement to be followed.

- The non-Federal entity **must use one** of the following methods of procurement.
- (a) **Procurement by micro-purchases.** Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
- (b) **Procurement by small purchase procedures.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

## §200.320 Methods of procurement to be followed.

- (c) **Procurement by sealed bids** (formal advertising). 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 bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.
- (1) In order for sealed bidding to be feasible, the **following conditions** should be present:
  - (i) A complete, adequate, and realistic specification or purchase description is available;
  - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
  - (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- (2) If sealed bids are used, the **following requirements** apply:
  - (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
  - (ii) 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;
  - (iii) 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;
  - (iv) 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
  - (v) Any or all bids may be rejected if there is a sound documented reason.

## §200.320 Methods of procurement to be followed.

- (d) **Procurement by competitive proposals.** The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
  - (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
  - (2) Proposals must be solicited from an adequate number of qualified sources;
  - (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
  - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

## §200.320 Methods of procurement to be followed.

- 5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of **architectural/engineering (A/E) professional** services whereby competitors' qualifications are evaluated and the most qualified competitor 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 are a potential source to perform the proposed effort.
- (e) [Reserved]
- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
  - (1) The item is available only from a single source;
  - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
  - (4) After solicitation of a number of sources, competition is determined inadequate.
- [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

# §200.323 Contract cost and price.

- (a) The non-Federal entity **must perform a cost or price analysis** in connection with every procurement action in excess of the Simplified Acquisition Threshold (**\$150,000**) 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 non-Federal entity must make **independent estimates before receiving bids or proposals**.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) **Costs or prices** based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.



# **§200.323 Contract cost and price.**

HCDE has developed a cost and price analysis form to document the review of the following:

**Prior to procurement** (1 of 9 methods under CH legal- TEC 44.031)

Document independent estimates

**After procurement**

Document cost and price reasonableness

# EDGAR forms available electronically

<http://appddictionstudio.com/HCDE/>



## **Edgar Procurement Forms to comply with Independent Estimates and Cost Analysis under CFR 200. 323**

HCDE has developed a system of controls to comply with federal guidelines under CFR 200.323 to include the independent estimate process and the cost analysis process.

The preparer (division) must start with the Independent Estimate Form and have it approved through 4 levels:

The (1) division director, the (2) Purchasing coordinator, the (2) Purchasing Director and the (3) Assistant Supt for Business.

Once the final approval has been made, the Purchasing Office will advertise and proceed with the procurement. After the bids and or proposals are received, the Cost Analysis form can be initiated, and it will be approved through the same four levels of approvals. At the end, the preparer will be able to download a complete file of all forms, approvals and attachments for the files.

Step 1: Complete the Independent Estimate Determination

Independent Estimate Determination

Step 2: After the Independent Estimate Determination is reviews by auditors, you are to complete the Determination of Cost or Price Analysis (Reasonableness)

Determination of Cost or Price Analysis (Reasonableness)

Click here to Track your Form

## HARRIS COUNTY DEPARTMENT OF EDUCATION INDEPENDENT ESTIMATE DETERMINATION

**Purpose:** Federal regulations require documentation of cost analysis or price analysis for every procurement action at or above \$150,000. As part of the analysis, the regulations require documentation of an independent estimate reached before receiving bids or proposals (see 2 C.F.R. § 200.323) or before receiving quotes or proposals from other governmental entities through an interlocal contract or a purchasing cooperative (see 2 C.F.R. § 200.318 (e)). The Independent Estimate Determination is a form used to document HCDE's estimated range of fair and reasonable costs for the goods and/or services to be acquired and to document the analysis **PRIOR** to seeking bids, proposals, or quotes. The form is kept as part of the procurement file along with the cost or price analysis, which is conducted after receiving proposals but before awarding a contract, to demonstrate that the procurement process was conducted in an open and fair manner and that HCDE received the most advantageous price.

**Instructions:**

1. Complete one (1) Independent Estimate Determination form **PRIOR** to either (1) advertising and receiving bids or proposals or (2) seeking quotes or proposals from other governmental entities through an interlocal contract or a purchasing cooperative, and complete all sections.
2. Provide a detailed discussion of your independent estimate and attach the required supporting information.
3. Sign in blue ink and date the form.
4. Maintain a copy in the procurement/contract file along with the cost or price analysis (as completed before contract award), subject to retention schedules.

**Prepared by:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Division:** \_\_\_\_\_

**Subject:** Independent Estimate Determination

### PART I SCOPE AND/OR SPECIFICATIONS

*Please attach documentation reflecting the Scope or Proposal/Work and/or Specifications.  
The attached Scope of Proposal/Work and/or Specifications contains the following (check all that apply):*

For Goods/Equipment	For Services
<input type="checkbox"/> Estimated quantity of items and/or goods required	<input type="checkbox"/> List of services/responsibilities to be performed
<input type="checkbox"/> Detailed description of each item required	<input type="checkbox"/> Detailed list of deliverables/tasks required
<input type="checkbox"/> Specifications and/or drawings for materials required	<input type="checkbox"/> Anticipated contract term and start date
<input type="checkbox"/> Date items and/or goods are required	<input type="checkbox"/> Location of project
<input type="checkbox"/> Delivery address and point of contact	<input type="checkbox"/> Specifications, drawings, and/or pictures of job site or projected results

## PART II INDEPENDENT ESTIMATE GUIDE

*Below is a guide for the completion of the Independent Estimate Determination. Please attach the documents requested under "items to include with independent estimate" to this Determination.*

Estimate Type	Items to Include with Independent Estimate	Where to Find Supporting Information
<b>Goods/Equipment</b>	<ol style="list-style-type: none"> <li>1. Product needed</li> <li>2. Estimated quantity</li> <li>3. Unit price</li> <li>4. Markups – overheads – profit</li> <li>5. Desired delivery schedule</li> <li>6. Warranty</li> </ol>	<ol style="list-style-type: none"> <li>1. Vendor survey/market survey</li> <li>2. Current or past contracts for the same or similar product</li> <li>3. Historical price and costs data</li> </ol>
<b>Services</b> (other than professional services, as defined by Tex. Educ. Code § 44.031(f) and/or Tex. Gov't Code Ch. 2254)	<ol style="list-style-type: none"> <li>1. Tasks you want done</li> <li>2. Types of people needed</li> <li>3. Positions required</li> <li>4. Estimated hours by position</li> <li>5. Salary/billing rates applied</li> <li>6. Prevailing wage rate category applied (if applicable)</li> <li>7. Profit/applied fee</li> <li>8. Direct expenses</li> <li>9. Completion schedule</li> </ol>	<ol style="list-style-type: none"> <li>1. Current or past contracts for similar services</li> <li>2. Other departments doing similar work</li> <li>3. Historical price and cost data</li> </ol>

## PART III INDEPENDENT ESTIMATE

*Please complete the following form.*

**This Independent Estimate is for:**

☐

Goods/Equipment

☐

Services

**Discussion of independent estimate before receiving bids or proposals including HCDE's estimated reasonable price range for the goods and/or services (attach additional explanation if necessary):** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Goods/Equipment

**Source Used to Develop Independent Estimate of Goods/Equipment (check all that apply and attach supporting documentation):**

- ☐ Vendor survey/market survey
  - ☐ Current or past contracts for the same or similar product
  - ☐ Historical price and costs data
  - ☐ Other (please specify source and attach supporting documentation): \_\_\_\_\_
- 
- 

### Services

**Source Used to Develop Independent Estimate of Services (check all that apply and attach supporting documentation):**

- ☐ Current or past contracts for similar services
  - ☐ Other departments doing similar work
  - ☐ Historical price and costs data
  - ☐ Other (please specify source and attach supporting documentation): \_\_\_\_\_
- 
- 

## **PART IV ATTACHMENT CHECKLIST**

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*The following required documentation is included as attachments to this Independent Estimate Determination (please check boxes to certify compliance with required documentation):*

- ☐ **Scope of Proposal/Work and/or Specifications (as required by Part I).**
- ☐ **For goods/equipment, documentation reflecting the following (as required by Part II):**
  - Product needed
  - Estimated quantity
  - Markups-overhead-profits
  - Unit price
  - Desired delivery schedule
  - Warranty
- ☐ **For services, documentation reflecting the following (as required by Part II):**
  - Tasks you want done
  - Types of people needed
  - Positions required
  - Estimated hours by position
  - Salary/billing rates applied
  - Prevailing wage rate category applied
  - Profit/applied fee
  - Direct expenses
  - Completion schedule
- ☐ **Documentation reflecting the source used to develop the independent estimate (as required by Part III).**
- ☐ **If applicable, additional supporting documentation (e.g., explanation of the process and/or sources used or explanation of the estimate reached). Please provide a brief explanation of the additional documents:**  
\_\_\_\_\_  
\_\_\_\_\_

## PART V CERTIFICATIONS

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*I certify that I developed this independent estimate prior to receiving bids or proposals as required by 2 C.F.R. § 200.323. I further certify that, to the best of my knowledge and belief, the information provided above and attached hereto is true and correct and that the independent estimate reflects a necessary, fair, and reasonable range of costs or prices for the future procurement.*

\_\_\_\_\_  
Full Name of Individual Preparing Form

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**APPROVED:**

\_\_\_\_\_  
Level One: Full Name of Program Manager (Grant)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Two: Full Name of Director of Purchasing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Three: Full Name of Assistant Superintendent for Program (grant)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Four: Full Name of Assistant Superintendent for Business

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\* Items above \$50,000

## Harris County Department of Education

**DETERMINATION OF COST OR PRICE ANALYSIS (REASONABLENESS)**

**Purpose:** Federal regulations require documentation of cost analysis or price analysis for every procurement action at or above \$150,000 (see 2 C.F.R. § 200.323). The Determination of Cost or Price Reasonableness form is used to document the analysis showing that the offered price is fair and reasonable. The form is kept as part of the procurement file to demonstrate that the procurement process was conducted in an open and fair manner and that HCDE received the most advantageous price. **This form is required by the Grant Director who is responsible for grant oversight and implementation of internal controls to meet the grant requirements.**

**Instructions:**

1. Complete a separate Determination of Cost or Price Reasonableness form for each vendor being recommended for contract award. Complete all sections.
2. Provide a detailed discussion of your price analysis or cost analysis. A Determination of Cost or Price Reasonableness form that lacks sufficient detail cannot be approved.
3. Sign in blue ink and date the form.
4. Maintain a copy on the grant file subject to retention schedules
5. Submit completed form to the Purchasing Director prior to contract award.

*An improperly completed and/or unsigned form will be returned to the Grant Director.*

**Prepared by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
(Grant Director)

**Email:** \_\_\_\_\_ **Phone Number:** \_\_\_\_\_

**Division:** \_\_\_\_\_

**Subject:** Determination of Cost or Price Reasonableness

**Good or service to be acquired:** \_\_\_\_\_

**RFP #:** \_\_\_\_\_

**Independent Estimate Produced before Receiving Bids or Proposals:** ☐ Yes (attach supporting document(s))

**Vendor:** \_\_\_\_\_

**Amount** \_\_\_\_\_

**(Attach written quotation or other information that documents the estimate of cost or price reasonableness)  
(As necessary include unit costs, rates, schedules, price estimates, and budgets, etc.)**

**I. This expenditure is being made under one or more of the following (check those that apply and attach supporting documentation):**

- ☐ A. Sole source (as defined under TEC 44.031(j))
- ☐ B. Emergency procurement (as defined under TEC 44.031(h))
- ☐ C. Interlocal agreement or purchasing cooperative (TEC 44.031(a)(4) / Ch. 791 of the Tex. Gov't Code); see 2 C.F.R. § 200.318 (e)
- ☐ D. Request for Quotations for goods or services at or above \$150,000 (HCDE has procedure of procuring and securing quotes for items under \$50,000 and above \$2,500)
- ☐ E. Request for Proposals for goods or services at or above \$150,000 (HCDE has a policy of procuring goods and services valued at \$50,000 or above in accordance with TEC 44.031(a) )
- ☐ F. Request for Quotations or Requests for Proposals (where the solicitation is publically posted) where only one (1) quote/proposal is received.
- ☐ G. Professional services (as defined under TEC 44.031(f) and/or Ch. 2254 of the Tex. Gov't Code).
- ☐ H. Price adjustment to Purchase Order No. \_\_\_\_\_ or Contract No. \_\_\_\_\_ and already procured under item A – G).
- ☐ I. Extension of an existing contract past its initial term. Contract extension is allowed under procurement method or contract. Extension must adhere to CH Local requirements for board approval and rationale is beneficial to HCDE.

\_\_\_\_\_  
\_\_\_\_\_

- ☐ J. Other condition (specify):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**II. Cost or price offered or fee negotiated is considered fair and reasonable for the following reason(s), and if applicable, is supported by attached documentation and/or a detailed discussion of the cost or price analysis (select at least one applicable situation):**

- ☐ Comparison of previous HCDE purchase order and contract prices with current proposed price, for the same or similar items. Both the validity of the comparison and the reasonableness of the previous price(s) have been established *Attach the referenced HCDE purchase orders/contracts, amounts, issuance dates, and how they are similar to the current purchase.*
- ☐ Comparison with Vendor's published price lists, market prices, pricing indexes, and discount or rebate arrangements. *Attach published price list or other published pricing information used (a vendor's quotation or correspondence does not qualify as a published price list).*
- ☐ Comparison of proposed price with independent cost estimates. *Attach estimates used.*
- ☐ Comparison of proposed price with prices obtained through market research for the same or similar items. *Attach documentation of research conducted.*
- ☐ Analysis of Offeror's cost information. *Attach cost information.*
- ☐ The order is priced in accordance with existing HCDE Purchase Order No. \_\_\_\_\_ and/or HCDE Contract No. \_\_\_\_\_, which was competitively established.



☐ Other reason (specify):

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**CERTIFICATION:**

*I certify that the information provided above is true and correct to the best of my knowledge and belief. I further certify that I have determined that the costs or prices proposed are necessary, fair, and reasonable.*

**APPROVED:**

\_\_\_\_\_  
Level One: Full Name of Program Manager (Grant)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Two: Full Name of Director of Purchasing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Three: Full Name of Assistant Superintendent for Program (grant)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Level Four: Full Name of Assistant Superintendent for Business

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\* Items above \$50,000

# §200.326 Contract provisions.

The non-Federal entity's contracts **must contain** the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

**HCDE developed an attachment for the RFP and the contract templates.**

# Subpart E-Cost Principles

## §200.403 Factors affecting allowability of costs.

- Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:
- (a) **Be necessary and reasonable** for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) **Be consistent with policies and procedures that apply uniformly** to both federally-financed and other activities of the non-Federal entity.
- (d) **Be accorded consistent treatment**. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) **Not be included as a cost or used to meet cost sharing** or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) **Be adequately documented**. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

# Be necessary and reasonable

- **Be necessary and reasonable** for the performance of the Federal award and be allocable thereto under these principles.
- What do we mean by necessary?
- What do we mean by reasonable?

**We need to know the DO NOTs**



# For TEA, in general: there are some costs that require specific approval

All professional and consulting services 6219 and Ch 2254.

Consulting (6291) – Except ESC

All Capital Outlay (6600)

Equipment above \$5,000 per unit

Technology purchases



# Professional and Contracted Services (6200)



A consultant **shall not be** used in the conduct of this application if the services to be rendered by such consultant could have been rendered by the sub-grantee's employees.

Grant funds **may not be used** for the following:

- ☐ Training or technical **assistance** on grant writing or obtaining grant funds
- ☐ **Fundraising** activities or training on fundraising
- ☐ **Multicolor printing costs** that are not reasonable and necessary to accomplish the objectives of the grant program (applies to printing costs incurred under 6200 and 6400)
- ☐ Legal **retainer fees**
- ☐ Tuition and fees for courses **not directly** related to the grant program
- ☐ **New building construction or renovating or remodeling of buildings**
- ☐ Conducting **required annual audit** and report of financial activities
- ☐ **Audit fees and expenses** for state-funded grants
- ☐ **Audit fees and expenses** when such costs are part of the organization's indirect cost pool

# Supplies and Materials (6300)



- Grant funds **may not be used** for the following:
- Supplies and materials, including electronic devices, **for personal use**. Must be used only for grant-related activities.
- Costs associated with **awards banquets, ceremonies, celebrations, and social events**
- **Cell phones** for personal use
- **Gifts or items** that could be construed as a gift
- **Souvenirs, memorabilia, or promotional items** (such as T-shirts, caps, tote bags, key chains, or imprinted pens)
- NOTE: Refer to the “Other Specific Items of Cost” section of this handbook for information on incentives to participate and awards for recognition.

# Other Operating Costs (6400)



Grant funds may not be used for the following:

- ☐ **Out-of-state training** when the same type and quality of training is available in state
- ☐ **Gifts or items** that can be construed as a gift
- ☐ **Souvenirs, memorabilia, or promotional items** (such as T-shirts, caps, tote bags, key chains, or imprinted pens)
- ☐ **Door prizes** (movie tickets, gift certificates, amusement park passes, and other similar items may be donated by others, but not purchased with grant funds)



# \$ letter word under 6400



- NOTE: Refer to the see the “Other Specific Items of Cost” section of this handbook for
- information on incentives to participate and awards for recognition.
- **Food**, meals, snacks, beverages, and refreshments as awards

While these determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible, it is likely that those circumstances will be rare. Subgrantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary. If program offices have questions, they should consult with their program attorney.

High  
Burden  
Of  
proof  
\$20

- **Multicolor printing costs** that are not reasonable and necessary to accomplish the objectives of the grant program
- **Membership dues** in organizations substantially engaged in lobbying or in social organizations
- **Memberships** in social organizations
- **Memberships** in civic or community organizations (for colleges and universities)
- **Professional or personal liability insurance** for individual employees
- **Tuition and fees** for courses not directly related to the grant program

# Receptions and Networking Sessions



In virtually all cases, using grant funds to pay for food and beverages for receptions and “networking” sessions is not justified because participation in such activities is rarely necessary to achieve the purpose of the meeting or conference.

# Travel costs that **are not allowed** are the following:



- Alcoholic beverages
- Tips or gratuities
- Entertainment, recreation, or social events
- Travel allowances, where per diem is paid to the employee regardless of the amount actually expended
- First-class airfare
- Any expense for other persons
- Meals and lodging for persons who live in the same city or town where the meeting, conference, or workshop is held
- Costs that **are not reasonable and necessary** to meet the objectives of the grant
- Costs related to **training or technical assistance on grant writing or obtaining funds**
- **Field trips** that do not meet the guidelines established by TEA (see the "Other Specific Items of Cost" section of this handbook for guidance related to field trips)

# Capital Outlay (6600)



Unless specifically permitted in the authorizing statute and approved by TEA in the grant application, the following costs **are unallowable**:

- Land purchase and improvements to land
- Construction, renovation, or remodeling
- Ground leveling, site preparation, foundation, plumbing, wiring, and sidewalk for a portable building are considered construction costs. Therefore, these costs are unallowable to be charged to the grant.

# Other Do Nots



Donations to other organizations or to other units within the sub-grantee organization are unallowable.

Employee service awards cannot be paid from grant funds.

Employer contributions to an employee's *voluntary* retirement plan, such as a 401(k) or 403(b), are unallowable. Employer contributions to *mandatory* pension plans, whereby it is mandatory that every employee participate and the employee cannot opt out, are allowable.

Fines and penalties are unallowable.

# Unallowable Costs Related to Field Trips



The following costs are unallowable:

- Field trips for social, entertainment, or recreational purposes
- Field trips that supplant and do not supplement local or state expenditures or activities
- Field trips that are not part of a teacher's lesson plan or that do not meet the instructional objectives of the grant program
- Field trips that are not reasonable in cost or are not necessary to accomplish the objectives of the grant program
- Field trips that are not properly documented (as described above)
- Field trips to entertainment or recreational locations that have legitimate educational programs when more than 25 percent of the time spent at the location is used for entertainment or recreation of field trip participants
- Refer to the program guidelines for the specific grant application for more guidance.

# Some Allowable

The Request for Specific Expenditure Justification: Educational Field Trips form may be required to be submitted with the grant application.

## **Examples of Potentially Allowable Educational Field Trips**

- Examples of appropriate educational field trips include the following:
- Curricular academic activities focused on math, science, and technology, such as service learning, internships, academic UIL competitions (such as robotics or math), or science and technology fairs
- Laboratory and field investigation instruction, used to improve students' understanding of science TEKS objectives
- Trips to a river, archaeological site, or nature preserve that might include contracting with local science centers, museums, zoos, and horticultural centers for visits and programs
- Trips to the local library to increase access to high-interest reading materials or research
- Visits to colleges and universities to encourage interest in the pursuit of higher education

# Disclaimers under EDGAR 34.75.620

The contents of this (insert type of publication; e.g., book, report, film) were developed under a grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the federal government.



# Perception is Reality!



- Subgrantees should consider how the meeting or conference will be perceived by the public; for example, will the meeting or conference be perceived as a good use of taxpayer dollars?
- <http://abc13.com/archive/7084313/>
- Caribbean Cruise to Cozumel Mexico

# Unallowable Expenses

- If federal grant funds are used on unallowable expenses, USDE **may seek to recover** any federal grant funds identified, in an audit or through program monitoring, as having been used for unallowable costs, including unallowable conference expenses.

## **§200.403 Factors affecting allowability of costs.**

- (a) **Be necessary and reasonable** – Documented by **Grant Director** with assistance from Purchasing Dept.
- (b) **Conform to any limitations** – Check by **Grant Director** with assistance from Business Office
- (c) **Be consistent with policies and procedures that apply uniformly** – Check by **Grant Director** with assistance from Business Office
- (d) **Be accorded consistent treatment.** – Check by **Grant Director** with assistance from Business Office
- (e) Be determined in accordance with generally accepted accounting principles (GAAP) – check by Business Office
- (f) **Not be included as a cost or used to meet cost sharing** – Check by **Grant Director** with assistance from Business Office
- (g) **Be adequately documented.** – **Check by Grant Director** with assistance from Business Office

## §200.415 Required certifications.

As outlined by the subtitle

### Required certifications include:

- (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or **vouchers requesting payment under the agreements must include a certification**, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows: **“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”**

- **HCDE has implemented a certification for all draw down payments in the Business Office which requires the Program Director, the Staff Accountant, the Chief Accounting Officer and the Assistant Supt for Business signature.**

# 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) Must address administrative, contractual, or legal remedies
  - (B) All contracts in excess of \$10,000 must address termination for cause and for convenience
  - (C) Equal Employment Opportunity.
  - (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
  - (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).
  - (F) Rights to Inventions Made Under a Contract or Agreement.
  - (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
  - (H) Debarment and Suspension (Executive Orders 12549 and 12689).
  - (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).
  - (J) See §200.322 Procurement of recovered materials.

# Edgar Summary



# Hurricane Harvey



# Updates due to Hurricane Harvey

FOR EDGAR Grants (not FEMA):

Hurricane Harvey and EDGAR Updates: **As posted on TEA Website**

[http://tea.texas.gov/Finance\\_and\\_Grants/Grants/Administering a Grant/Request for Prior Approval, Disclosure, and Justification Forms/](http://tea.texas.gov/Finance_and_Grants/Grants/Administering_a_Grant/Request_for_Prior_Approval_Disclosure_and_Justification_Forms/)

## **§200.320 Methods of procurement to be followed.**

The non-Federal entity must use one of the following methods of procurement:

a) to d) as listed on this section..

**f) Procurement by noncompetitive proposals.** Procurement by noncompetitive proposals is procurement through solicitation of a proposal from **only one source** and may be used only when one or more of the following circumstances apply:

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

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

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

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

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015]



# 2 cfr 200.320f(2)

For FEMA claims, there are specific procurement requirements that do not apply. Thus contact your FEMA Representative.

## Request for Prior Approval, Disclosure, and Justification Forms

### Hurricane Harvey

One allowable use of a non-competitive procurement is a public exigency or emergency that will not allow for a delay in services, caused by the competitive solicitation process. In the event of an emergency, such as Hurricane Harvey, a grant recipient may choose to solicit a noncompetitive proposal from only one source to avoid delay in procuring items or services ([2 CFR 200.320\(f\)\(2\)](#)).

Local educational agencies (LEAs) in Texas affected by the devastation caused by Hurricane Harvey may need to use the noncompetitive proposal method of procurement to quickly purchase needed items or services. When using the noncompetitive procurement method, all costs must still be allowable under the specific program.

For example, an LEA that received damage from Hurricane Harvey may need to quickly replace or acquire materials or services that were damaged, destroyed, or lost in the storms. Also, an LEA receiving a number of evacuated students may need to choose the noncompetitive procurement option to more quickly procure needed items or services to be able to serve the unexpected growth in enrollment numbers.

LEAs that determine a need for noncompetitive procurement are not required to obtain prior approval from TEA. Local documentation on how the determination was made would be kept locally. However, if the LEA prefers to obtain prior approval from TEA as their documentation for auditors, appropriate forms are available below.

1. For LEAs located in counties identified in the Governor's disaster declaration that received damages in the storms, [an automatically approved form is available for downloading](#). Submission to TEA is not required.
2. For LEAs outside the counties identified in the Governor's disaster declaration that enrolled evacuated students from Hurricane Harvey, [a prior approval request may be submitted to the Associate Commissioner for Grants Compliance and Oversight](#). Approvals will be processed within ~~three business days~~

#### Related Content

##### Quick Links

[Entitlements](#)  
[General and Fiscal Guidelines](#)  
[Transition to ESSA](#)  
[ESSA Private School Equitable Services](#)  
[Substitute System of Time and Effort Reporting](#)  
[TEA Grant Opportunities](#)  
[Travel Information and Guidance](#)  
[The New EDGAR](#)  
[When to Amend the Application](#)

#### Contact Information

##### Grants Administration Division

Phone: [\(512\) 463-8525](tel:(512)463-8525)

Fax: (512) 463-9564

[grants@tea.texas.gov](mailto:grants@tea.texas.gov)



<https://cfo.gov/cofar/cofar-resources/>

### **Agencies**

<a href="#">Agency for International Development</a>	<a href="#">Corporation for National and Community Service</a>	<a href="#">Department of Agriculture</a>	Department of Commerce*
<a href="#">Department Of Defense</a>	<a href="#">Department Of Education</a>	<a href="#">Department Of Energy</a>	Department of Homeland Security*
<a href="#">Department Of Justice</a>	<a href="#">Department Of Labor</a>	<a href="#">Department of State</a>	<a href="#">Department of The Interior</a>
<a href="#">Department Of Transportation</a>	<a href="#">Department of Treasury</a>	<a href="#">Environmental Protection Agency</a>	Gulf Coast Restoration Council*
<a href="#">Health and Human Services</a>	Housing and Urban Development*	Institute of Museum and Library Services*	<a href="#">National Aeronautics and Space Administration</a>
<a href="#">National Archives and Records Administration</a>	National Endowment for Arts*	National Endowment for Humanities*	<a href="#">National Science Foundation</a>
Office of the National Drug Control Policy*	<a href="#">Small Business Administration</a>	Social Security Administration*	Veterans Affairs*

\*These agencies do not have exceptions relating to 2 CFR 200

# Update to Procedures and Forms

- 1) Update to CH Local, CHE Local -see draft
- 2) Update to Internal procedures – Conflict of Interest Form Questionnaires for staff
- 3) Update to Instructions to Committee Form, Recommendation Forms for RFPs, and Effectiveness and Compliance Form
- 4) Update to Conflict of Interest in RFP template
- 5) Update to Contract Provisions
- 6) Update to Cost and Price Analysis
- 7) Update to Estimate & Analysis Form
- 8) Update to CIS Form for staff
- 9) Update to Internal Control Assessment Form
- 10) Update to RFPs and Templates and contracts
- 11) Update source of funds for all contracts
- 12) Update to Standard Conditions
- 13) Update to Time and Effort Forms
- 14) Update to certification forms
- 15) Update debarment process





**For additional information or training, contact:**

**HCDE PLUS –Planning Leadership and  
Unmodified Systems – a member of HCDE Texas  
Cooperative Programs Alliance - TCPA**

Jesus J. Amezcua, PhD., CPA. RTSBA

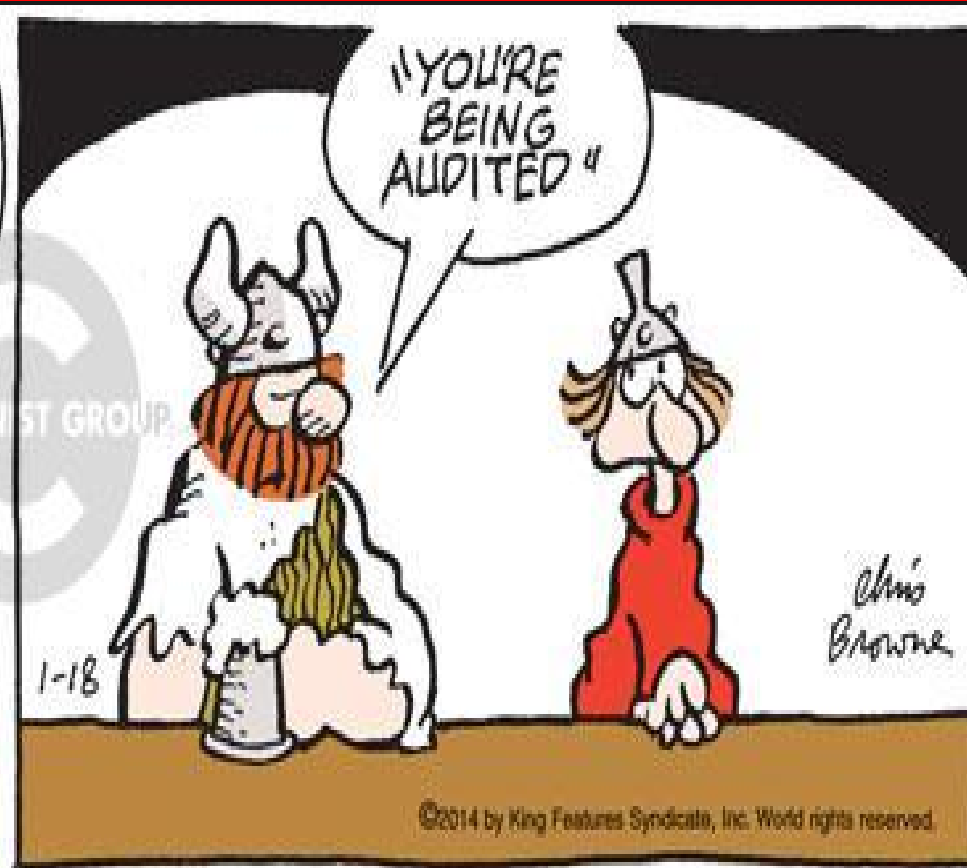
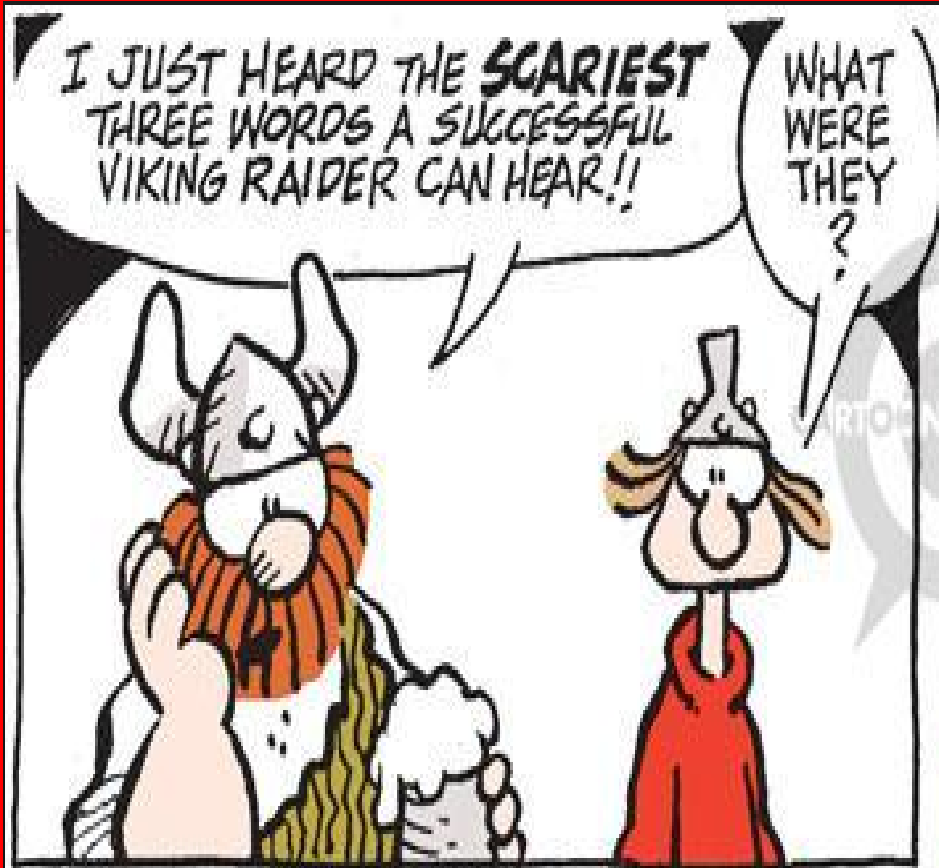
Assistant Supt for Business

6300 Irvington Boulevard

Houston, Texas 77022

713-696-1371 or 956-324-9827

[jamezcua@hcde-texas.org](mailto:jamezcua@hcde-texas.org)



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**CONFLICT OF INTEREST DISCLOSURE  
ALL BUDGET MANAGERS  
2015-16**

**Note:** A budget manager is an individual that is authorized to approve purchase request of any kind (Requisitions, Grants, Bids, Purchase Requests, Campus and Student Activity) and/or is involved in any way in the procurement of any goods and services and is also involved in the approval of transfers or amendments (i.e. Principals, Directors, Supervisors, Budget Managers, etc.)

1. Have you accepted a cash gratuity of any amount that will result in personal gain while representing HCDE? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain and disclose from whom \_\_\_\_\_
2. Have you accepted any Non-Cash gratuities that have a retail value of more than \$25.00 from a vendor this year? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please disclose who and explain \_\_\_\_\_
3. Have you accepted a gratuity during duty and non duty periods and did you report it to your Supervisor within 72 hours? Yes \_\_\_\_\_ No \_\_\_\_\_ N/A \_\_\_\_\_ If no, explain \_\_\_\_\_
4. Do you own a business or have an interest in a company that does business with HCDE? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, disclose name of company and your interest in the outside company \_\_\_\_\_
5. Does any one in your family (brother, sister, mother, father, daughter, son, grandparents, uncles, aunts, etc.) work for, or have an interest in, a vendor or company doing business with HCDE? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, disclose name of company and your interest in the outside company \_\_\_\_\_

**CERTIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.**

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Printed Name

**FOR HCDE USE ONLY**

<b>NOTE:</b> Failure to complete this form will prevent the employee from being authorized to approve any purchases within the HCDE	
Reviewed By Compliance Officer:	Authorized to participate in the procurement process by HCDE Assistant Supt for Business



**Harris County Department of Education  
Business Office /Purchasing Division**

**EC Form**

**Effectiveness and Compliance Review**

[This form is used to document due diligence by Buyer]

To: Purchasing Audit File and Jesus J. Amezcua, Ph.D., CPA, RTSBA  
Assistant Supt. for Business

From: Kendra Jackson – Contracts Manager

Purchasing ~~Dept~~: Bill Monroe, Purchasing Director

Job- Bid or RFP# and Name: 15/029KJ Lease of a Tidwell Head Start Facility for Harris County  
Department of Education

Board Meeting Date: July 21, 2015

Date: June 30, 2015

**Procurement Requirements Applicable:**

Check One

☐ Under \$2,500 (Requires Division Director and Asst Supt. Approval)  
☐ From \$2,500 to \$49,999 (Requires Buyer, Purchasing Director/CFO Approval)  
☒ Over \$50,000 (per CH Local)  
☐ Cooperative Programs (Requires Board Approval)

I certify that I have reviewed the attached job (bid or RFP) and certify that all of my actions as a Recommendations Committee Member are within the procurement requirements in accordance with local Board Policies (CH local/legal) and legal (federal and state) policies and administrative guidelines set by the Business Office and the Purchasing Division.

I certify that I have adhered to the Purchasing Policies of HCDE concerning the review of this job (bid or RFP) to include policies on conflict of interest.

I certify that I am aware of all purchasing policies (CH Local and CH Legal) and administrative procedures of HCDE.

I certify that I am aware of the penalties of not following the purchasing policies and procedures and in specific with section 44.032 of the Texas Education Code which deals with the penalties related to sequential or component purchases.

I certify that I am aware of the EDGAR requirements as amended on Dec 26, 2014 under 2 CFR Part 200, and in specific the **conflict of interest requirements** for federal funds.

I certify that I am aware of Chapter 176 of the Local Government Code requirements for local government officers regarding **conflict of interest disclosures**.

I further certify that I recommend the issuance of a purchase order after Board approval and execution of a contract.

(Note: This form is required of all jobs (bids and RFPs) prepared by all buyers and Director)





**Harris County Department of Education  
Business Office /Purchasing Division  
Job (Bid-Proposal) **Recommendation Form**  
Program Review**

[This form is used to document due diligence by Recommendation Committee]

To: Purchasing Division  
From: Recommendation Committee

Venetia Peacock \_\_\_\_\_

Jay Atkins \_\_\_\_\_

Armando Rodriguez \_\_\_\_\_

|

Job (Bid or RFP#) and Name: 15/029KJ

Lease of a Tidwell Head Start Facility for Harris County Department of Education

Board Meeting Date: July 21, 2015

Date: June 30, 2015

**Procurement Requirements Available:**

Check One

_____	Under \$2,500 (Requires Division Director and Asst Supt. Approval)
_____	From \$2,500 to \$25,000 (Requires Buyer, Purchasing Director/CFO Approval)
<u>  X  </u>	Over \$50,000 (Requires Board Approval)

I certify that I have reviewed the attached Job (bid or RFP) and certify that all of my actions as a Recommendations Committee Member are within the procurement requirements in accordance with local Board Policies (CH local/legal) and legal (federal and state) policies and administrative guidelines set by the Business Office and Purchasing Division.

I certify that I have adhered to the Purchasing Policies of HCDE concerning the review of this job( bid or RFP) to include policies on conflict of interest (CIQ).

I certify that I am aware of all purchasing policies (CH Local and CH Legal) and administrative procedures of HCDE.

I certify that I am aware of the penalties of not following the purchasing policies and procedures and in specific with section 44.032 of the Texas Education Code which deals with the penalties related to sequential or component purchases.





I certify that I am aware of the EDGAR requirements as amended on Dec 26, 2014 under 2 CFR Part 200, and in specific the conflict of interest requirements for federal funds.

I certify that I am aware of Chapter 176 of the Local Government Code requirements for local government officers regarding conflict of interest disclosures.

I further certify that I recommend the issuance of a purchase order after Board approval and execution of a contract.

(Note: This form is required of all jobs (bids and RFPs) prepared by all Buyers & Director)

**Justification:**

Job no. 15/029KJ

This RFP was developed for the Lease of a Tidwell Head Start Facility for Harris County Department of Education.

This job was competitively bid and advertised. The result of the bid generated the following response:


Invitation to propose was sent to twenty-five (25) vendors.

HCDE received one (2) response.

**Recommendation:**

HCDE is recommending KQC, LLC, for an award.



	<b>PROCUREMENT PROCEDURES</b> HARRIS COUNTY DEPARTMENT OF EDUCATION	Reference: <a href="#">CH (LEGAL and CH LOCAL)</a>
DATE DEVELOPED: 6/15/2015		
REVISED DATE: 6/15/2015		
SUBJECT: Protest Procedures		



### ***Protest Procedures***


HCDE has protest procedures in place to handle and resolve disputes relating to procurements.

In all instances, information regarding the protest must be disclosed to the Purchasing Office. A protester must exhaust all administrative remedies with HCDE or [subcontractor](#) before pursuing a protest with the [granting](#) agency. Reviews of protest by HCDE will be limited to:

- Violations of federal law or regulations and procurement standards established by federal regulations (violations of state or local law will be under the jurisdiction of state or local authorities)
- Violations of the Contractor's or subcontractor's protest procedures for failure to review a complaint or protest

HCDE will review any protests and provide a response addressing each protest. The Purchasing Director will report all protests to the Assistant Superintendent of Business and prepare a summary report.

#### **Authority:**

- [29 CFR §97.36\(b\)\(12\)](#)
- [45 CFR §92.36\(b\)\(12\)](#)
- [7 CFR §3015.180](#)
- [UGMS Part III § 36\(b\)\(12\)](#) 

**FEDERAL FUNDS: If the source of funds for this purchase is federal funds, the following federal provisions apply, (as applicable).**

Section 14.52 of the Texas Family Code, added by S.B. 84, Acts, 73rd Legislature, R.S. (1993); Equal Employment Opportunity; Davis-Bacon Act, as amended (40 U.S.C. 3141-3148); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Rights to Inventions Made Under a Contract or Agreement; Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended; Debarment and Suspension (Executive Orders 12549 and 12689; Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Record Retention Requirement - 2 CFR § 200.333; Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15; Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871; Buy America Act;

MONTH OF  

**I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."**

Card Holder Name

Budget Manager Name

**HARRIS COUNTY DEPARTMENT OF EDUCATION  
CERTIFICATION OF FINANCIAL STATEMENTS**

**Monthly Financial Reports & Drawdown Submitted to Region 10  
Distribution of TXVSN Revenue**

We have reviewed the expenditures, revenues, and appropriations for accuracy and completeness in the general ledger for the month. Texas Education Agency's Financial Accountability System Resource Guide ("FASRG") has been followed to assure grant compliance.

**By signing this report, I further certify to the best of my knowledge and belief that the monthly financial statements and drawdown reports along with supporting documentation are true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."**

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Jesus J. Amezcua, PhD, CPA, RTSBA, Assistant Superintendent for Business Services

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Rosa Maria Torres, Chief Accounting Officer

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Hayley Wilson, Senior Accountant

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Angela Smith, Director – Texas Virtual School Network

# LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

FORM CIS

(Instructions for completing and filing this form are provided on the next page.)

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.

## OFFICE USE ONLY

Date Received

1 Name of Local Government Officer

2 Office Held

3 Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code

4 Description of the nature and extent of employment or other business relationship with vendor named in item 3

5 List gifts accepted by the local government officer and any family member, if aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100 during the 12-month period described by Section 176.003(a)(2)(B).

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

Date Gift Accepted \_\_\_\_\_ Description of Gift \_\_\_\_\_

(attach additional forms as necessary)

6 AFFIDAVIT

I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to each family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a)(2)(B), Local Government Code.

\_\_\_\_\_  
Signature of Local Government Officer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
Signature of officer administering oath

\_\_\_\_\_  
Printed name of officer administering oath

\_\_\_\_\_  
Title of officer administering oath

**CONFLICT OF INTEREST QUESTIONNAIRE****FORM CIQ****For vendor doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

**1** Name of vendor who has a business relationship with local governmental entity.

**2** ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3** Name of local government officer about whom the information in this section is being disclosed.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

**4**\_\_\_\_\_  
Signature of vendor doing business with the governmental entity\_\_\_\_\_  
Date



## LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a misdemeanor.

Please refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

### INSTRUCTIONS FOR COMPLETING THIS FORM

*The following numbers correspond to the numbered boxes on the other side.*

- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code.** Enter the name of the vendor described by Section 176.001(7), Local Government Code, with whom the officer has an employment or other business relationship as described by Section 176.003(a)(2)(A), Local Government Code.
- 4. Description of the nature and extent of employment or business relationship with vendor named in item 3.** Describe the nature and extent of the employment or other business relationship with the vendor in item 3 as described by Section 176.003(a)(2)(A), Local Government Code.
- 5. List gifts accepted, if the aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100.** List gifts accepted during the 12-month period (described by Section 176.003(a)(2)(B), Local Government Code) by the local government officer or family member of the officer from the vendor named in item 3 that in the aggregate exceed \$100 in value.
- 6. Affidavit.** Signature of local government officer.



<b>CERTIFICATE OF INTERESTED PARTIES</b>			<b>FORM 1295</b>																																							
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.			<b>OFFICE USE ONLY</b>																																							
<b>1</b> Name of business entity filing form, and the city, state and country of the business entity's place of business.																																										
<b>2</b> Name of governmental entity or state agency that is a party to the contract for which the form is being filed.																																										
<b>3</b> Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.																																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 40%;">4 Name of Interested Party</th> <th rowspan="2" style="width: 25%;">City, State, Country (place of business)</th> <th colspan="2" style="width: 35%;">Nature of Interest (check applicable)</th> </tr> <tr> <th style="width: 15%;">Controlling</th> <th style="width: 20%;">Intermediary</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>					4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)		Controlling	Intermediary																																
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		Controlling	Intermediary																																							
<b>5</b> Check only if there is NO Interested Party. <input type="checkbox"/>																																										
<b>6 AFFIDAVIT</b> I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.																																										
<div style="text-align: right;">           _____            Signature of authorized agent of contracting business entity         </div> <div style="text-align: center; margin-top: 10px;">           AFFIX NOTARY STAMP / SEAL ABOVE         </div> <div style="text-align: center; margin-top: 10px;">           Sworn to and subscribed before me, by the said _____, this the _____ day            of _____, 20_____, to certify which, witness my hand and seal of office.         </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">             _____              Signature of officer administering oath           </div> <div style="width: 30%;">             _____              Printed name of officer administering oath           </div> <div style="width: 30%;">             _____              Title of officer administering oath           </div> </div>																																										
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>																																										

Include the  
ISD Name

Include the  
contract # or RFP

This is a  
sample copy  
of the form,  
but only the  
form printed  
through the  
ethics  
commission  
will be  
accepted.  
Note: all  
forms will  
have an ID #.

Sample only . Go to  
the ethics  
commission to  
download...

**HARRIS COUNTY DEPARTMENT OF EDUCATION  
PROPOSER/VENDOR CERTIFICATION FORMS**

**CERTIFICATION OF COMPLIANCE WITH TEXAS FAMILY CODE PROVISION**

As per Section 14.52 of the Texas Family Code, added by S.B. 84, Acts, 73rd Legislature, R.S. (1993), all bidders must complete and submit with the bid the following affidavit:

I, the undersigned vendor, do hereby acknowledge that NO sole proprietor, partner, majority shareholder of a corporation, or an owner of 10% or more of another business entity is 30 days or more delinquent in paying child support under a court order or a written repayment agreement. I understand that under this provision, a sole proprietorship, partnership, corporation or other entity in which a sole proprietor, partner, majority shareholder or a corporation, or an owner of 10% or more of another entity is 30 days or more delinquent in paying child support under a court order or a written repayment agreement is NOT eligible to bid or receive a state contract.

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS  
UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200**

The following provisions are required and apply when federal funds are expended by HCDE for any contract resulting from this procurement process.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, 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.

Pursuant to Federal Rule (A) above, when federal funds are expended by HCDE, HCDE reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(B) Termination for cause and for convenience by the grantee or ~~subgrantee~~ including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when federal funds are expended by HCDE, HCDE reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. HCDE also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if HCDE believes, in its sole discretion that it is in the best interest of HCDE to do so. The vendor will be compensated for work performed and accepted and goods accepted by HCDE as of the termination date if the contract is terminated for convenience of HCDE. Any award under this procurement process is not exclusive and HCDE reserves the right to purchase goods and services from other vendors when it is in the best interest of HCDE.

(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."

Pursuant to Federal Rule (C) above, when federal funds are expended by HCDE on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does vendor agree to abide by the above?

YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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.

Pursuant to Federal Rule (D) above, when federal funds are expended by HCDE, during the term of an award for all contracts and ~~subgrants~~ for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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.

Pursuant to Federal Rule (E) above, when federal funds are expended by HCDE, the vendor certifies that during the term of an award for all contracts by HCDE resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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.

Pursuant to Federal Rule (F) above, when federal funds are expended by HCDE, the vendor certifies that during the term of an award for all contracts by HCDE resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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).

Pursuant to Federal Rule (G) above, when federal funds are expended by HCDE, the vendor certifies that during the term of an award for all contracts by HCDE resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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.

Pursuant to Federal Rule (H) above, when federal funds are expended by HCDE, the vendor certifies that during the term of an award for all contracts by HCDE resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

(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.

Pursuant to Federal Rule (I) above, when federal funds are expended by HCDE, the vendor certifies that during the term and after the awarded term of an award for all contracts by HCDE resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all ~~subrecipients~~ shall certify and disclose accordingly.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS –  
2 CFR § 200.333**

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When federal funds are expended by HCDE for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or ~~subgrantees~~ submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS  
APPLICABLE TO GRANTS, ~~SUBGRANTS~~, COOPERATIVE AGREEMENTS, AND CONTRACTS  
IN EXCESS OF \$100,000 OF FEDERAL FUNDS**

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When federal funds are expended by HCDE for any contract resulting from this procurement process in excess of \$100,000, the vendor certifies that the vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

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When federal funds are expended by HCDE for any contract resulting from this procurement process, the vendor certifies that the vendor will ~~be in compliance with~~ mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

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Vendor certifies that vendor is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**CERTIFICATION OF NON-COLLUSION STATEMENT**

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Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of vendor

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**Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.**

Vendor's Name/Company Name: \_\_\_\_\_  
Address, City, State, and Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Printed Name and Title of Authorized Representative: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Signature of Authorized Representative: \_\_\_\_\_  
Date: \_\_\_\_\_