



FINANCIAL POLICY – FEDERAL GRANTS POLICY

Introduction

This policy sets forth the procedures used by Pulaski County (the County) to administer federal funds. The policy contains the internal controls and grant management standards used by the County to ensure that all federal funds are lawfully expended. Employees of the County are expected to review this policy to gain familiarity and understanding of the County's rules and practices in administering federal funds.

Applying for Grant Funds

Department heads are required to inform the County Administrator prior to the submission of any grant application. The department applying for the grant should provide the narratives, specifics and technical verbiage for the grant application as well as the assumption of responsibility for fulfilling grant requirements. The County Administrator reports all grant applications to the Board of Supervisors and may request their approval prior to submission if the appropriation of matching funds is required. All grant awards should be immediately reported (and a copy of the award provided) to the County Administrator and the Director of Finance. Department heads are responsible for all interim and final reporting requirements and for the monitoring of special conditions for any grants received in their department.

Financial Management System

The County maintains a proper financial management system to receive both direct and state-administered federal grants and to expend funds associated with grant awards. Certain fiscal controls and procedures must be in place to ensure that all financial management system requirements are met. Failure to meet a requirement may result in the return of grant funds or termination of the award.

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Financial Management Standards

The standards for financial management systems are found at 2 CFR § 200.302. The required standards include:

Identification

The County must identify, in its accounts, all federal awards received and expended and the federal programs under which they are received. Federal program and award identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of federal agency, and, if applicable, name of the pass-through entity. The County uses revenues classifications 31 through 35 to identify federal awards.

Financial Reporting

Accurate, current, and complete disclosure of the financial results of each federal award of programs must be made in accordance with the financial reporting requirements set forth in the Government Accounting Standards Board (GASB) on the Schedule of Federal Awards (SEFA), and in accordance with Generally Accepted Accounting Principles (GAAP). The County complies with this standard in the preparation of its Comprehensive Annual Financial Report (CAFR).

Accounting Records

The County must maintain records, which adequately identify the source and application of funds provided for federally assisted activities. These records must contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest, and be supported by source documentation. The County's accounting records include the required information including federal award amounts, expenditures, encumbered obligations and unexpended balances. The County maintains supporting documentation until the completion of the grant.

Internal Controls

Effective control and accountability must be maintained for all funds, real and personal property, and other assets. The County must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

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“Internal controls” are tools to help program and financial managers achieve results and safeguard the integrity of their program. Internal controls should be designed to provide reasonable assurance that the following objectives are achieved:

- Effectiveness and efficiency of operations;
- Adequate safeguarding of property;
- Assurance property and money is spent in accordance with grant program and to further the selected objectives; and
- Compliance with applicable laws and regulations.

The County utilizes appropriate internal controls, which are reviewed annually and refined as needed as part of the independent audit.

Budget Control

Actual expenditures or outlays must be compared with budgeted amounts for each federal award. The County’s financial system provides budget control each time an expenditure or encumbrance is entered.

Cash Management

The County must maintain written procedures to implement the cash management requirements found in 2 CFR § 200.302 and 2 CFR § 200.305. The County’s written federal cash management procedures are detailed in a separate section of this policy below.

Allowable Costs

The County must maintain written procedures for determining allowability of costs in accordance with 2 CFR 200, Subpart E, special grant conditions and other specific grant requirements.

Overview of the Financial Management/Accounting System

The County uses the Tyler Technologies Munis financial accounting system. The software provides an integrated accounting system for disbursements, budgeting, billing, collections, and payroll. Budgets are prepared, monitored and maintained within the financial system. Department heads are responsible for monitoring their budget appropriately and have access to appropriate reports. Quarterly reports are provided to the Board of Supervisors.

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Accounts payable and time entry for payroll require multiple approval levels. For federal awards, funds are identified within the general ledger by a revenue classification code. The Finance department is responsible for assisting the auditors in the completion of the SEFA.

County Accounting Records

The accounts of the County and its discretely presented component units (Pulaski County Public Schools, Pulaski County Public Service Authority and the Economic Development Authority of Pulaski County, Virginia) are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts, which comprise of assets, liabilities, revenues and expenditures, or expenses, as appropriate. The various funds are summarized by governmental or business-type activities in the general-purpose financial statements, while components are reported in separate columns/rows.

Spending Grant Funds

The County has adopted and will adhere to 2 CRF 200, Subpart E – Cost Principles.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a give costs, consideration must be given to:

- a. Whether the cost is a type of generally recognized as ordinary and necessary for the operation of the County or the proper and efficient performance of the Federal award.
- b. The restraints or requirements imposed by such factors as: sound business practices; arm's length bargaining; Federal, state, and other laws and regulations; and terms and conditions of the Federal award.
- c. Market prices for comparable goods or services for the geographical area.
- d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the County, its employees, where applicable its students or membership, the public at large, and the Federal government.
- e. Whether the County significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

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Determining Allowability of Costs

The County has adopted and will adhere to 2 CFR 200, Subpart E – Costs Principles.

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 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 County.
- d. Be accorded consistent treatment. A cost may not be assigned 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 in this Part.
- f. Not to 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 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 on this Part.

Federal Cash Management Policy/Procedures

The County will comply with applicable methods and procedures for payment that minimize the time elapsing between the transfer of funds and disbursement by the County, in accordance with the Cash Management Improvement Act at 31 CFR Part 205. Generally, the County receives payment on a reimbursement basis. 2 CFR § 200.305.

However, if the County receives an advance in federal grant funds, the County will remit interest earned on the advanced payment quarterly to the federal agency. The County may retain interest amounts unto \$500 per day for administrative expenses. 2 CFR § 200.305(b)(9).

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Payment Methods

Reimbursements: The County will initially charge federal grant expenditures to non-federal funds. The County will request reimbursement for actual expenditures incurred under the federal grants. All reimbursements are based on actual disbursements, not obligations.

Consistent with state and federal requirements, the County will maintain source documentation supporting the federal expenditures (invoices, times sheets, payroll stubs, etc.) and will make such documentation available for review upon request.

Reimbursements of actual expenditures do not require interest calculations.

Advances: To the extent the County received advance payments of federal grant funds; the County will strive to expend the federal funds on allowable expenditures as expeditiously as possible. Specifically, the County attempts to draw down of federal funds within 72 hours of receipt.

The County will hold federal advance payments in interest-bearing accounts, unless an allowable exception applies. The County will begin to calculate interest on cash balances once funds are deposited into the County's account.

Interest will be calculated quarterly. Total federal grant cash balances will be calculated on cash balances per grant and applying the County's actual interest rate. The County may retain up to \$500 of interest earned per year for administrative expenses. Within 30 days of the end of the quarter, the County will remit any interest earned in advance federal grant payments above the \$500 threshold.

Timely Obligation of Funds

When Obligations are Made

Obligations are orders placed for property and services, contracts and subawards made, and similar transactions during the given period that require payment by the County during the same or a future period. 34 CFR § 200.71

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The following table illustrates when funds are determined to be obligated under federal regulations:

If obligation is for:	The obligation is made:
Acquisition of property	On the date which the County makes a binding written commitment to acquire the property
Personal services by an employee of the County	When the services are performed
Personal Services by a contractor who is not an employee of the County	On the date which the County makes a binding written commitment to obtain services
Public utility services	When the County received the services
Travel	When the travel is taken
Rental of Property	When the County uses the property

Period of Performance of Federal Funds

All obligations must occur on or between the beginning and ending dates of the grant project. 2 CFR § 200.309. This period of time is known as the period of performance. 2 CFR § 200.77. The period of performance is dictated by statute and will be indicated in the Grant Award Notice (GAN). Further, certain grants have specific requirements for carryover funds that must be adhered to.

State-Administered Grants: As a general rule, state-administered federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many federal education grants, the period availability is 27 months. Federal education grant funds are typically awarded on July 1 of each year.

Direct Grants: In general, the period of availability for funds authorized under direct grants is identified in the GAN.

For both state-administered and direct grants, regardless of the period of availability, the County must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period unless an extension is authorized. 2 CFR § 200.343(b).

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Any funds not obligated within the period of availability or liquidated within the appropriate timeframes are said to lapse and must be returned to the awarding agency. 2 CFR § 200.343(d). Consequently, the County closely monitors grant spending throughout the grant cycle.

Procurement System

The County maintains a local Procurement Policy that complies with the Virginia Public Procurement Act (VPPA). The following is a recap of the County's policy and additional requirements for purchases using Federal funding.

Purchase Methods

The County's Procurement Policy was adopted by Resolution and revised on June 26, 2023 and is available on the County's website.

In addition to the County's procurement code, purchasing with federal funds shall comply with the following subsections of 2 CFR 200:

§ 200.318 General Procurement Standards

- a. The County must use its own documented procurement procedures, which reflect applicable State and local regulations, if the procurements conform to applicable Federal law and the standards identified in this part.
- b. The County must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specification of their contracts or purchase orders.
- c. The County 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 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 County may neither solicit nor accept gratuities, favors, or anything of monetary

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value from contractors or parties to subcontracts. However, the County may set standards for situations in which the financial interest is not substantial if the gift is an unsolicited item on 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 County. The County's Standards of Conduct are documented in the County Employee Handbook, which can be found on the County's website under Human Resources.

If the County has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the County must also maintain written standards of conduct covering organization conflicts of interest. Organizational conflicts of interest mean that because of the relationships with a parent company, affiliate, or subsidiary organization, the County is unable or appears to be unable to be impartial in conducting a procurement action involving the related organization.

- d. The County's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking our 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 County 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 or services.
- f. The County 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 County is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- h. The County 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 the contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

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- i. The County must maintain records sufficient to detail the history of the procurement. These records will include, but not necessarily limited to the following: rationale the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- j. The County 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 costs to a County is the sum of:
 - The actual cost of materials; and
 - Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since the 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 County 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 controls.

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

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§ 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. To ensure objective contractor performance and eliminate unfair competitive advantage, 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:
 - Placing unreasonable requirements on firms in order for them to qualify to do business;
 - Requiring unnecessary experience and excessive bonding;
 - Noncompetitive pricing practices between firms or between affiliated companies;
Organizational conflict of interest;
 - 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
 - Any arbitrary action in the procurement process.

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

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- c. The County must have written procedures for procurement transactions. These procedures ensure that all solicitations:
 - 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 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 requirement of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- d. The County must ensure that all prequalified lists of persons, firms, or products which are used in inquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the County must not preclude potential bidders from qualifying during the solicitation period.

§200.320 Methods of procurement to be followed

The County 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 (\$3,000 §200.67 Micro-purchase). To the extent practicable, the County must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the County considers the price to be reasonable.

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- b. Procurement by small purchase procedures. Small purchases procedures consistent with the County procurement policy processes for purchases not exceeding Simplified Acquisition Threshold (\$200.88 \$150,000) or the County’s policy, whichever is lower.
- c. Competitive sealed bidding procedures consistent with the County procurement policy. 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 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 following conditions apply:
 - d.
 - 1. 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 principally on the basis of price.
 - 2. If sealed bids are used, the following 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 local, and tribal governments, the invitation for bids must be publicly advertised;
 - (ii) The invitation for bids, which will include any specifications and pertinent attachments, must be define the items or services 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 the 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.

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- e. Procurement by competitive proposals. Competitive proposals consistent with the County procurement policy. 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 County 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
 - 5. The County 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. 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 County; or
 - 4. After solicitation of several sources, competition is determined inadequate.

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

- a. The County must take all necessary affirmative steps to assure that minority business, women’s business enterprises, and labor surplus area firms are used when possible.
- b. Affirmative steps must include:
 1. Placing qualified small and minority business and women’s business enterprises on solicitation lists;
 2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
 3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
 4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
 5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 6. Requiring the prime contractor, if subcontracts are to be let, to make the affirmative steps listed in paragraphs 1 through 5.

§200.322 Procurement of recovered materials

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

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§ 200.323 Contract cost and price

- a. The County must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the County must make independent estimates before receiving bids or proposals.
- b. The County 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 County under Subpart E – Cost Principles of this part. The County 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.

§200.324 Federal Awarding agency or pass-through entity review

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

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- b. The County must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - 1. The County's procurement procedures or operation fails to comply with the procurement standards in this part;
 - 2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - 3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - 4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - 5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- c. The County is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - 1. The County may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;
 - 2. The County may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the County that it is complying with these standards. The County must cite specific policies, procedures, regulations, or standards as following these requirements and have its system available for review.

§200.325 Bonding requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may

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accept the bonding policy and requirements of the County provided that the Federal awarding agency or pass-through entity has decided that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

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§200.326 Contract provisions

The County’s contracts must contain the applicable provisions described in Appendix II to Part 200 – Contract Provisions for County Contracts Under Federal Awards as summarized in the table below and detailed in the subsequent corresponding lettered paragraphs.

	Provisions Topic	Contract Type and Value
a	Contractual Procedures (breach, remedies, sanctions and penalties)	All contracts exceeding Simplified Acquisition Threshold (\$150,000)
b	Termination Clause	All contracts exceeding \$10,000
c	Equal Employment Opportunity	All contracts. Any dollar value.
d	Davis-Bacon Act	Construction Contracts exceeding \$2,000
e	Contract Work Hours and Safety Standards Act	Contracts that involve the employment of mechanics or laborers exceeding \$100,000
f	Rights to Inventions Made Under a Contract or Agreement	“Funding Agreements” related to environmental, developmental, or research work type. Any dollar value.
g	Environmental Protection (Clean Air Act)	Contracts and subgrants in excess of \$150,000 must contain a provision that requires a non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act.
h	Debarment and Suspension	All contracts.
i	Lobbying Certification	All contracts exceeding \$100,000
j	Recovered Material	Purchases of items exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

Contracts for more than the federal 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,

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- a. contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.
- c. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60. “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- d. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C.3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29CFR 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 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 Works 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

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non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate 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 purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmissions of intelligence.
- f. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- g. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution 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).

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- 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 agencies, as well as parties declared ineligible under statutory or regulatory authority other the Executive Order 12549.
- i. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- j. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative Procurement program for Procurement of recovered materials identified in the EPA guidelines.

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Conflict of Interest

Standards of Conduct

The County complies with 2 CFR 200 §200.112, “The Federal awarding agency must establish conflict of interest policies for Federal awards. The County 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.” 2 CFR 200 §200.113 further notes, “The County or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII – Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM). Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

Transactions involving Federal awards are subject to all conflict of interest policies, as applicable;

Board Policies. The following policies have been separately reviewed and approved by the Board of Supervisors, and are incorporated here by reference:

Pulaski County Procurement Policy

<https://www.pulaskicounty.org>

Pulaski County Personnel Policy and Procedures Manual

Standards of Conduct and Performance

<https://www.pulaskicounty.org/employee-resources.html>

Virginia Conflicts of Interest Act §2.2-3100

<https://law.lis.virginia.gov/vacode/2.2-3100/>

Adopted June 26, 2023 by the Pulaski County Board of Supervisors