

THE STATE OF TEXAS
CITY OF RIO HONDO
COUNTY OF CAMERON

Juan Garza, Commissioner Place 1
Margaret Perez, Mayor Pro-Tem
Jose S. Cavazos, Commissioner Place 5

Esteban Bocanegra, Place 2
Olga Gallegos, Commissioner Place 4

Gustavo Olivares
Mayor

**Notice of a Regular Meeting of the
City Commission of the City of Rio Hondo
July 12, 2022**

Pursuant to Chapter 551, Tittle 5 of the Texas Government Code, the Texas Open Meetings Act, notice is hereby given that the governing body of the City of Rio Hondo, Texas will convene for a **Regular Meeting at 6:30 p.m. on Tuesday July 12, 2022**, at the **City Commission Chambers** on the Second Floor of the Rio Hondo Municipal Building located at 121 N. Arroyo Blvd., Rio Hondo, Texas 78583.

PLEDGE OF ALLEGIANCE

UNITED STATES PLEDGE

INVOCATION:

Regular Agenda:

1. Mayor's and Commissioner's Report
2. Reports: Administrator
3. **Public Comment Period: *Please Note- The Public Comment Period is designated for hearing concerns regarding City of Rio Hondo Public Policy or City of Rio Hondo business that is or is not on the agenda or items listed on the agenda.***
4. Consideration and Action on approval of the City Commission Minutes of June 28, 2022
5. Consideration and Action adopting the Citizen Participation Plan for the City of Rio Hondo.
6. Consideration and Action adopting the grant policies and procedures to include Federal Procurement Policies and Policies and Federal Grant Financial Policies.
7. Consideration and Action adopting Resolution 2022-05 and 2022-06 authorizing the submission of applications for Community Development Block Grant-Disaster Recovery (CDBG-DR) funds administered through the Texas General Land Office for the City of Rio Hondo.
8. Public Hearing on Ordinance No. 2022-05 regarding a negotiated resolution between the City and Texas Gas Service and the Company's April 28, 2022 Cost of Service adjustment

9. Consideration and Action on Ordinance 2022-05 regarding a negotiated resolution between the City and Texas Gas Service and the Company's April 28, 2022 Cost of Service adjustment filing.
10. Budget Workshop on the City Administration, Municipal Court and City Commission budgets for the October 1, 2022, to September 30, 2022. FY (Ben Medina, Jessica Gonzalez, Lucy Garza, Finance.)
11. Executive Session regarding **Item (A)** Section 551.071 regarding the Arroyo Escondido proposed subdivision, **Item (B)** Section 551.072 regarding McLeod Blk 142.4.
12. No Action is to be taken on item discussed in Executive Session.
13. Adjournment

Note: The City Commission for the City of Rio Hondo reserves the right to adjourn into executive session at any time during this meeting to discuss any matters, as authorized by the Texas Government Code, including but not limited to Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

Note: The Meeting is accessible to Americans with Disabilities. Persons with disabilities who plan to attend this meeting and who may need assistance, please call the City Secretary at (956) 748-2102, with at least twenty-four hours prior to the meeting.


Gustavo Olivares
Mayor of the City of Rio Hondo

POSTED

I, City Secretary for the City of Rio Hondo, do hereby certify that this Notice of Meeting is a true and correct record and was posted in the bulletin board outside City Hall, and the bulletin board in the City Hall lobby, at 121 N. Arroyo Blvd, Rio Hondo, Texas 78583 and remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

DATE: 7/8/2022 TIME: 2:00pm

Item 4

MINUTES FROM A REGULAR MEETING ON June 28, 2022

The Government Body of the City of Rio Hondo, Texas met in a Regular Meeting on June 28, 2022 at 6:30 pm in the Commission Chambers at City Hall, with Mayor- Gustavo Olivares presiding, Margaret Perez and Commissioners, Juan Garza- Present, Esteban Bocanegra- Present, Olga Gallegos- Present, and Jose Cavazos- Present.

PLEDGE OF ALLEGIANCE

Led by Mayor Gustavo Olivares at 6:30 pm

INVOCATION:

Led by Commissioner Juan Garza

Regular Agenda:

1. Mayor's and Commissioner's Report -- Mayor Gustavo Olivares mentioned he will be attending the Lower Rio Grande Valley Development Council.
2. **Reports: Administrator, Public Safety, Library, Senior Center, Public Works** – Mr. Medina noted Bridge Fest is scheduled for August 13, 2022 from 4 p.m. – 10 p.m. He added the Girl Scouts will place flags on FM 106 and on veterans graves at both cemeteries. There was also 439 tires collected during the tire round-up. Senior center is continuing curb side meals as they have 20 people that eat at the center and 60 that pick up. Public Works is preparing for Hurricane Season. Sandbags are to be filled and generators are filled and serviced. Also reported the ditches are being cleaned and they are replacing stop signs throughout the city. The Civic Center air conditioner needs to be replaced. Public Works is still in need of 3 employees as well as the city needing a Utilities Clerk. Mr. Medina lastly added we have 6 Summer help staff, all Rio Hondo students and/or graduates. Chief William Bilokury reported the Police Department is servicing generators and they may be able to get another. There were 121 traffic stops, 86 citations issued and 35 warning given. He added the calls for service are up with 6 arrests. Carolyn Dawson, Library Director reported they had 7-10 students in the Summer Reading Program. She also noted that Gloria Bermea is offering free art classes however the participants have to supply their own equipment. There is a 5-7 limit. The door count to the library is increasing. Commissioner Steve Bocanegra added he would like to promote the art classes on the website. Mayor Olivares asked when are the classes held. Mrs. Dawson answered the last Saturday of the month from 10 a.m. to 12 p.m. Mayor Olivares then added an idea to possibly hold food handlers classes once every 6 months. Using the library as a hosting place. Mrs. Dawson stated that it was a good idea, the library is a resource for the community. Mayor Olivares lastly added for Mr. Medina to have a court report on how much has been collected.
3. **Public Comment Period: *Please Note - The Public Comment Period is designated for hearing concerns regarding City of Rio Hondo Public Policy or City of Rio Hondo business for both items not on the agenda and items listed on the agenda.*** – No public comments were given.
4. Consideration and Action on approval of the City Commission Minutes of May 17, 2022, and May 24, 2022, and June 14, 2022. – Commissioner Margaret Perez motioned to approve May 17th, May 24th and June 14th's 2022 minutes with the correction of canvassing to the Lower Rio Grande Valley

- Development Council. She was seconded by Commissioner Steve Bocanegra. The motion passed unanimously.
5. Discuss, consider, and adopt resolution designating JNB engineering service provider for the Texas Hazard Mitigation Assistance program application and project implementation. – Motion to adopt resolution designating JNB to develop a plan was made by Commissioner Juan Garza and he was seconded by Commissioner Steve Bocanegra and the motion passed unanimously.
 6. Discuss, consider, and adopt resolution designating GrantWorks LLC. a management service provider for the Texas Hazard Mitigation Assistance program application and project implementation. -- Commissioner Juan Garza motioned to adopt resolution designating GrantWorks LLC to help manage the grant. Motion was seconded by Commissioner Steve Bocanegra. The motion passed.
 7. Budget Workshop on the Library, Parks, Streets budget for the October 1, 2022 to the September 30, 2023 (Ben Medina, Carolyn Dawson, Library Director, Murl Kemmerling, Public Works, Lucy Garza, Finance.) – Mr. Medina reported that Library Director, Carolyn Dawson has a lot of projects that go on at the library. As part of their budget, they are requesting one additional part-time assistant to help manage those projects, increase salaries and painting and lighting throughout the library. Parks and Receptions will be adding a splash pad and boat ramp park. Along with that, they will be needing painting, bringing in dirt for the fields and replacement of play structures. Commissioner Olga Gallegos questioned if there was enough to finish the third field. Mr. Medina replied “maybe.” Mr. Medina later added there are six public works with three vacancies; out of those, one needs to be designated to the parks. He stated \$25,000 will be needed for painting and maintaining parks. Three of the six Public Works employees are included in the budget, along with the fuel exceeding the budget (increasing) and street repairs ranging at about \$20,000 (also increasing). Mr. Medina then added that he spoke with the engineer and Heywood, along with Retama will be getting repairs. He also stated that Harris needs to be reconstructed but there is no money for it. Mayor Olivares stated that Harris needs to be repaired due to the new park being built. Commissioner Steve Bocanegra added that drainage also needs to be done on Harris. Commissioner Jose Cavazos asked if sidewalks are included in the budget due to the fact that students walk on the shoulder of Highway 345. Sidewalks are to be added to budget.
 8. Executive Session: Item (A) Section 551.071 and Section 551.072 and Section 551.087 regarding lots 3-4 Block 22 of the Rio Hondo Original Townsite. Item (B) Section 551.071 and Section 551.072 and Section 551.087 regarding McLeod Blk 142.4. – Commission went into executive session at 7:59 p.m. and ended at 8:13 p.m.
 9. Consideration and Action on items discussed in Executive Session. -- Commissioner Margaret Perez motioned to proceed as discuss in executive session. She was seconded by Commissioner Olga Gallegos. Motion passed unanimously.
 10. Adjournment – Commissioner Margaret Perez motioned to adjourn followed by Commissioner Olga Gallegos. Meeting adjourned at 8:15 p.m.

Item 5

**THE CITY OF RIO HONDO
CITIZEN PARTICIPATION PLAN
TEXAS GENERAL LAND OFFICE (GLO) COMMUNITY DEVELOPMENT BLOCK
GRANT SOUTH TEXAS FLOODS RECOVERY PROGRAM
(CDBG-DR)**

COMPLAINT PROCEDURES

These complaint procedures comply with the requirements of the Texas General Land Office Community Development Block Grant Disaster Recovery (CDBG-DR) Program and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations). Citizens can obtain a copy of these procedures at the City of Rio Hondo, 121 N Arroyo, Rio Hondo, Texas 78583, (956)748-2102 during regular business hours.

Below are the formal complaint and grievance procedures regarding the services provided under the CDBG-DR program project(s).

1. A person who has a complaint or grievance about any services or activities with respect to the CDBG-DR project(s), whether it is a proposed, ongoing, or completed CDBG-DR project(s), may during regular business hours submit such complaint or grievance, in writing to Mayor, at 121 N Arroyo, Rio Hondo, Texas 78583, or may call (956)748-2102
2. A copy of the complaint or grievance shall be transmitted by the Mayor to the entity that is the subject of the complaint or grievance and to the City Attorney within five (5) working days after the date of the complaint or grievance was received.
3. The Mayor shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to the person who made the complaint or grievance within ten (10) days.
4. If the investigation cannot be completed within ten (10) working days per 3 above, the person who made the grievance or complaint shall be notified, in writing, within fifteen (15) days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the CDBG-DR program for their further review and comment.
6. If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish, or other appropriate language.

TECHNICAL ASSISTANCE

When requested, the City shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of CDBG-DR funds. The City, based upon the specific needs of the community's residents at the time of the request, shall determine the level and type of assistance.

PUBLIC OUTREACH EFFORTS (IF REQUIRED)

The City shall provide for reasonable public notice, appraisal, examination and comment on the activities proposed for the use of CDBG-DR funds. These efforts shall include:

1. Provide for and encourage citizen participation, particularly by low and moderate income

- persons who reside in slum or blighted areas and areas in which CDBG-DR funds are proposed to be used;
2. Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to an entity's proposed and actual use of CDBG-DR funds;
 3. Furnish citizens information, including but not limited to:
 - a) the amount of CDBG-DR funds expected to be made available
 - b) the range of activities that may be undertaken with the CDBG-DR funds
 - c) the estimated amount of the CDBG-DR funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons
 - d) if applicable, the proposed CDBG-DR activities likely to result in displacement and the entity's anti-displacement and relocation plan
 4. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the entity's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state; and
 5. These outreach efforts may be accomplished through one or more of the following methods:
 - a) Publication of notice in a local newspaper—a published newspaper article may be used so long as it provides sufficient information regarding program activities and relevant dates;
 - b) Notices prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups;
 - c) Posting of notice on the local entity website (if available);
 - d) Public Hearing; or
 - e) Individual notice to eligible cities and other entities as applicable using one or more of the following methods:
 - Certified mail
 - Electronic mail or fax
 - First-class (regular) mail
 - Personal delivery (e.g., at a Council of Governments [COG] meeting)

PUBLIC HEARING PROVISIONS (IF REQUIRED)

For each public hearing scheduled and conducted by a CDBG-DR applicant or recipient, the following public hearing provisions shall be observed:

1. Furnish citizens information, including but not limited to:
 - (a) The amount of CDBG-DR funds available per application;
 - (b) The range of activities that may be undertaken with the CDBG-DR funds;
 - (c) The estimated amount of the CDBG-DR funds proposed to be used for activities that will meet the national objective of benefit to low- and moderate-income persons; and
 - (d) The proposed CDBG-DR activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans that are required under 24 CFR 570.488.
2. Public notice of any hearings must be published at least seventy-two (72) hours prior to the scheduled hearing. The public notice must be published in a local newspaper. Each public notice MUST include the DATE, TIME, LOCATION and TOPICS to be considered at the public hearing. A published newspaper article may also be used to meet

this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.

3. Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and an applicant must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to each hearing.
4. When a considerable number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter will be present to accommodate the needs of the non-English speaking residents.
5. City may conduct a public hearing via webinar if they also follow the provisions above. If the webinar is used to conduct a public hearing, a physical location with associated reasonable accommodations must be made available for citizens to participate so as to ensure that those individuals without necessary technology are able to participate.
6. If applicable, the locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the actual use of funds for a period of three years after the project is closed out. Such records must be made available to the public in accordance with Chapter 552, Government Code.

Mayor Gustavo Olivares
City of Rio Hondo

Date

**LA CIUDAD DE RIO HONDO
PLAN DE PARTICIPACIÓN CIUDADANA
TEXAS GENERAL LAND OFFICE (GLO) COMMUNITY DEVELOPMENT BLOCK
GRANT FLOODS RECOVERY PROGRAM
(INUNDACIONES CDBG-DR)**

PROCEDIMIENTOS DE RECLAMACIÓN

Estos procedimientos de queja cumplen con los requisitos del Programa de Recuperación de desastres de Texas de la Oficina General de Tierras de Texas y los requisitos del Gobierno Local que se encuentran en 24 CFR §570.486 (Código de Regulaciones Federales). Los ciudadanos pueden obtener una copia de estos procedimientos en la Ciudad de Rio Hondo, 121 N Arroyo, Rio Hondo, Texas 78583, (956)748-2102 durante el horario comercial regular.

A continuación se presentan los procedimientos formales de quejas y quejas con respecto a los servicios prestados bajo los proyectos del Programa de Recuperación de Desastres.

1. Una persona que tenga una queja o queja sobre cualquier servicio o actividad con respecto a los proyectos de inundaciones CDBG-DR, ya sea un proyecto propuesto, en curso o completado CDBG-DR, puede presentar dicha queja o queja, por escrito al Alcalde, a 121 N Arroyo, Rio Hondo, Texas 78583 o al (956)748-2102.
2. Una copia de la queja o queja será transmitida por el Alcalde de la entidad que es objeto de la queja o queja y al Abogado de la Ciudad dentro de los cinco (5) días hábiles posteriores a la fecha en que se recibió la queja o queja.
3. El Alcalde completará una investigación de la queja o queja, si es posible, y proporcionarán una respuesta oportuna por escrito a la persona que hizo la queja o queja dentro de los diez (10) días.
4. Si la investigación no puede completarse dentro de los diez (10) días hábiles por 3 anteriores, la persona que hizo la queja o queja será notificada, por escrito, dentro de los quince (15) días cuando sea posible después de la recepción de la queja o queja original y detallará cuándo debe completarse la investigación.
5. Si es necesario, la queja y una copia escrita de la investigación posterior se enviarán al programa de inundaciones CDBG-DR para su posterior revisión y comentarios.
6. Si es apropiado, proporcione copias de los procedimientos de quejas y las respuestas a las quejas en inglés y español, u otro idioma apropiado.

ASISTENCIA TÉCNICA

Cuando se solicite, la Ciudad proporcionará asistencia técnica a los grupos que sean representativos de personas de ingresos bajos y moderados en el desarrollo de propuestas para el uso de los fondos de CDBG-DR. La Ciudad, con base en las necesidades específicas de los residentes de la comunidad en el momento de la solicitud, determinará el nivel y el tipo de asistencia.

ESFUERZOS DE DIVULGACIÓN PÚBLICA (SI ES REQUERIDO)

La Ciudad proporcionará un aviso público razonable, evaluación, examen y comentarios sobre las actividades propuestas para el uso de los fondos de CDBG-DR . Estos esfuerzos incluirán:

1. Proporcionar y fomentar la participación ciudadana, particularmente de las personas de ingresos bajos y moderados que residen en barrios marginales o áreas arruinadas y áreas en las que se propone utilizar los fondos de CDBG-DR;
2. Garantizar que los ciudadanos tengan acceso razonable y oportuno a las reuniones locales, la información y los registros relacionados con el uso propuesto y real de los fondos de

- CDBG-DR por parte de una entidad;
3. Proporcionar información a los ciudadanos, incluyendo pero no limitado a:
 - a) se espera que la cantidad de fondos CDBG-DR esté disponible
 - b) la gama de actividades que se pueden llevar a cabo con los fondos CDBG-DR
 - c) el monto estimado de los fondos CDBG-DR propuestos para ser utilizados para actividades que cumplirán con el objetivo nacional de beneficiar a las personas de ingresos bajos y moderados
 - d) si corresponde, las actividades propuestas de CDBG-DR que probablemente resulten en desplazamiento y el plan anti-desplazamiento y reubicación de la entidad
 4. Proporcionar a los ciudadanos un aviso previo razonable y la oportunidad de comentar sobre las actividades propuestas en una solicitud al estado y, para las subvenciones ya realizadas, las actividades que se propone agregar, eliminar o cambiar sustancialmente de la solicitud de la entidad al estado. Sustancialmente modificado significa cambios realizados en términos de propósito, alcance, ubicación o beneficiarios según lo definido por los criterios establecidos por el estado; y
 5. Estos esfuerzos de divulgación se pueden lograr a través de uno o más de los siguientes métodos:
 - a) Publicación de un aviso en un periódico local: se puede utilizar un artículo de periódico publicado siempre que proporcione información suficiente sobre las actividades del programa y las fechas relevantes;
 - b) Avisos publicados prominentemente en edificios públicos y distribuidos a las Autoridades locales de Vivienda Pública y otros grupos comunitarios interesados;
 - c) Publicación de un aviso en el sitio web de la entidad local (si está disponible);
 - d) Audiencia Pública; o
 - e) Notificación individual a las ciudades elegibles y otras entidades, según corresponda, utilizando uno o más de los siguientes métodos:
 - Correo certificado
 - Correo electrónico o fax
 - Correo de primera clase (regular)
 - Entrega personal (por ejemplo, en una reunión del Consejo de Gobiernos [COG])

DISPOSICIONES SOBRE AUDIENCIAS PÚBLICAS (SI ES REQUERIDO)

Para cada audiencia pública programada y realizada por un solicitante o beneficiario de CDBG-DR, se observarán las siguientes disposiciones de audiencia pública:

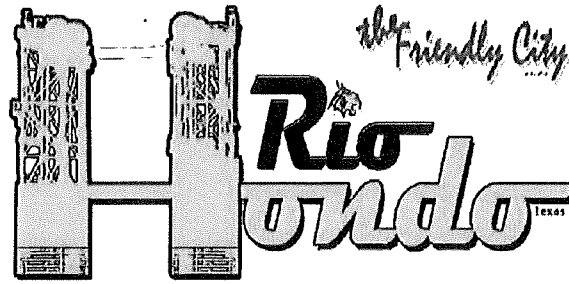
1. Proporcionar información a los ciudadanos, incluyendo pero no limitado a:
 - (a) La cantidad de fondos CDBG-DR disponible;
 - (b) La gama de actividades que se pueden llevar a cabo con los fondos CDBG-DR ;

- (c) El monto estimado de los fondos CDBG-DR propuestos para ser utilizados para actividades que cumplirán con el objetivo nacional de beneficiar a las personas de ingresos bajos y moderados; y
 - (d) Las actividades propuestas de CDBG-DR probablemente resulten en desplazamiento y la unidad de planes generales de localización y reubicación requeridos bajo 24 CFR 570.488.
2. El aviso público de cualquier audiencia debe publicarse al menos setenta y dos (72) horas antes de la audiencia programada. El aviso público debe publicarse en un periódico local. Cada aviso público DEBE incluir la FECHA, HORA, LUGAR y TEMAS a considerar en la audiencia pública. Un artículo de periódico publicado también se puede utilizar para cumplir con este requisito, siempre y cuando cumpla con todos los requisitos de contenido y tiempo. Los avisos también deben publicarse de manera prominente en los edificios públicos y distribuirse a las autoridades locales de vivienda pública y otros grupos comunitarios interesados.
 3. Cada audiencia pública se llevará a cabo en un momento y lugar conveniente para los beneficiarios potenciales o reales e incluirá adaptaciones para personas con discapacidades. Las personas con discapacidades deben poder asistir a las audiencias y un solicitante debe hacer arreglos para las personas que requieren ayudas o servicios auxiliares si se contacta al menos dos días antes de cada audiencia.
 4. Cuando se puede esperar razonablemente que un número considerable de residentes que no hablan inglés participen en una audiencia pública, un intérprete estará presente para satisfacer las necesidades de los residentes que no hablan inglés.
 5. La Ciudad puede llevar a cabo una audiencia pública a través de un seminario web si también siguen las disposiciones anteriores. Si el seminario web se utiliza para llevar a cabo una audiencia pública, se debe poner a disposición de los ciudadanos una ubicación física con adaptaciones razonables asociadas para que participen a fin de garantizar que las personas sin la tecnología necesaria puedan participar.
 6. Si corresponde, la localidad debe conservar la documentación de los avisos de audiencia, las listas de asistencia, las actas de la audiencia y cualquier otro registro relacionado con el uso real de los fondos durante un período de tres años después de que se cierre el proyecto. Dichos registros deben ponerse a disposición del público de conformidad con el Capítulo 552, Código de Gobierno.

Alcalde Gustavo Olivares
Ciudad de Rio Hondo

Fecha

Item 6



CITY OF RIO HONDO PROCUREMENT POLICIES AND PROCEDURES

The City of Rio Hondo follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.

§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 §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

§200.318 General procurement standards.

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(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.

(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.

(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. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(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.

(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 §200.214.

(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.

(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.

(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.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) 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.

(c) 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. 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.

(d) 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.

(e) 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.

(f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

§200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) *Informal procurement methods.* When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) *Micro-purchases*—(i) *Distribution.* The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in §200.1). To the

maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) *Micro-purchase awards.* Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) *Micro-purchase thresholds.* The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) *Non-Federal entity increase to the micro-purchase threshold up to \$50,000.* Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;
- (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- (C) For public institutions, a higher threshold consistent with State law.

(v) *Non-Federal entity increase to the micro-purchase threshold over \$50,000.* Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) *Small purchases—(i) Small purchase procedures.* The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) *Simplified acquisition thresholds.* The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) *Formal procurement methods.* When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) *Sealed bids.* A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) 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.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) 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;

(C) 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;

(D) 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

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) *Proposals.* A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) *Noncompetitive procurement.* There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

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

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

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

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

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

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§200.323 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 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.

§200.324 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 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 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.

§200.325 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity 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 generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity 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.

(b) The non-Federal entity 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 non-Federal entity'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 non-Federal entity 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 non-Federal entity 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 in order 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 non-Federal entity 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 non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(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 requirements 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.

§200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

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

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of

a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the **Federal Water Pollution Control Act** (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the **Clean Air Act** (42 U.S.C. 7401-7671q) and the **Federal Water Pollution Control Act** as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323*

(K) See § 200.216**

(L) See § 200.322***

***§ 200.323 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 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.

****§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.**

(a) Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

*****§ 200.322 Domestic preferences for procurements.**

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

These Policies and Procedures are passed and approved through the City of Rio Hondo, through the City Council on July __, 2022.

Gustavo Olivares
City Mayor

Item 7

RESOLUTION

A RESOLUTION OF THE CITY OF RIO HONDO, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) APPLICATION TO THE TEXAS GENERAL LAND OFFICE AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG-DR PROGRAM.

WHEREAS, the City of Rio Hondo desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, certain conditions exist related CDBG-DR 2018 South Texas Floods Recovery Funding, an eligible federally declared disaster in 2018, which represent a threat to the public health, safety and welfare; and

WHEREAS, it is necessary and in the best interests of to apply for funding under the CDBG-DR Program;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF RIO HONDO, TEXAS:

1. That a CDBG-DR application is hereby authorized to be filed with the Texas General Land Office for funding consideration under the CDBG-DR 2018 South Texas Floods Recovery Funding.
2. That the application be for up to \$1,000,000 of grant funds to provide drainage improvements.
3. That the Mayor is designated as the Chief Executive Officer(s) and Authorized Representative(s) to act in all matters in connection with this application and participation in the CDBG-DR Program.
4. That the Mayor is designated to oversee all grant activities so as to ensure there are no Conflicts of Interest.
5. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
6. That contributing funds in the amount of \$10,000 in cash are committed by the City of Rio Hondo toward application activities;

Passed and approved on July __, 2022.

Gustavo Olivares, Mayor

Attest:

Ben Medina, City Administrator

RESOLUTION

A RESOLUTION OF THE CITY OF RIO HONDO, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) APPLICATION TO THE TEXAS GENERAL LAND OFFICE AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG-DR PROGRAM.

WHEREAS, the City of Rio Hondo desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, certain conditions exist related CDBG-DR 2019 Disasters Recovery Funding, an eligible federally declared disaster in 2019, which represent a threat to the public health, safety and welfare; and

WHEREAS, it is necessary and in the best interests of to apply for funding under the CDBG-DR Program;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF RIO HONDO, TEXAS:

1. That a CDBG-DR application is hereby authorized to be filed with the Texas General Land Office for funding consideration under the CDBG-DR 2019 Disasters Recovery Funding.
2. That the application be for up to \$1,000,000 of grant funds to provide drainage improvements.
3. That the Mayor is designated as the Chief Executive Officer(s) and Authorized Representative(s) to act in all matters in connection with this application and participation in the CDBG-DR Program.
4. That the Mayor is designated to oversee all grant activities so as to ensure there are no Conflicts of Interest.
5. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
6. That contributing funds in the amount of \$10,000 in cash are committed by the City of Rio Hondo, toward application activities;

Passed and approved on July __, 2022.

Gustavo Olivares, Mayor

Attest:

Ben Medina, City Administrator

Item 8

Texas Gas Service Company, a Division of ONE Gas, Inc.

Rio Grande Valley Service Area

RATE SCHEDULE 30

INDUSTRIAL SERVICE RATE

APPLICABILITY

Applicable to any qualifying industrial customer whose primary business activity at the location served is included in one of the following classifications of the Standard Industrial Classification Manual of the U.S. Government.

Division B - Mining - all Major Groups

Division D - Manufacturing - all Major Groups

Divisions E and J - Utility and Government - facilities generating power for resale only

TERRITORY

The Rio Grande Valley Service Area includes the incorporated areas of Alamo, Alton, Brownsville, Combes, Donna, Edcouch, Edinburg, Elsa, Harlingen, Hidalgo, La Feria, La Joya, La Villa, Laguna Vista, Los Fresnos, Lyford, McAllen, Mercedes, Mission, Palm Valley, Palmhurst, Palmview, Penitas, Pharr, Port Isabel, Primera, Progreso, Rancho Viejo, Raymondville, Rio Hondo, San Benito, San Juan, Santa Rosa, and Weslaco, Texas.

COST OF SERVICE RATE

During each monthly billing period:

A Customer Charge per meter per month of \$903.88 plus

All Ccf @ \$0.30336 per Ccf

OTHER ADJUSTMENTS

Cost of Gas Component: The basic rates for cost of service set forth above shall be increased by the amount of the Cost of Gas Component for the billing month computed in accordance with the provisions of Rate Schedule 1-INC.

Excess Deferred Income Taxes Rider: The billing shall reflect adjustments in accordance with provisions of the Excess Deferred Income Taxes Rider, Rate Schedule EDIT-Rider.

Pipeline Integrity Testing Rider: The billing shall reflect adjustments in accordance with provisions of the Pipeline Integrity Testing Rider, Rate Schedule PIT.

Rate Schedule RCE: Adjustments in accordance with provisions of the Rate Case Expense Surcharge Rider.

Taxes: Plus applicable taxes and fees (including franchises fees) related to above.

CONDITIONS

Subject to all applicable laws and orders, and the Company's rules and regulations on file with the regulatory authority.

Supersedes Same Sheet Dated
July 28, 2021

Meters Read On and After
July 27, 2022

TRANSPORTATION SERVICE RATE

APPLICABILITY

Applicable to customers who have elected Transportation Service not otherwise specifically provided for under any other rate schedule.

Service under this rate schedule is available for the transportation of customer-owned natural gas through Texas Gas Service Company, a Division of ONE Gas, Inc.'s (the "Company") distribution system. The customer must arrange with its gas supplier to have the customer's gas delivered to one of the Company's existing receipt points for transportation by the Company to the customer's facilities at the customer's delivery point. The receipt points shall be specified by the Company at its reasonable discretion, taking into consideration available capacity, operational constraints, and integrity of the distribution system.

AVAILABILITY

Natural gas service under this rate schedule is available to any individually metered, non-residential customer for the transportation of customer owned natural gas through the Company's Rio Grande Valley distribution system which includes the incorporated areas of Alamo, Alton, Brownsville, Combes, Donna, Edcouch, Edinburg, Elsa, Harlingen, Hidalgo, La Feria, La Joya, La Villa, Laguna Vista, Los Fresnos, Lyford, McAllen, Mercedes, Mission, Palm Valley, Palmhurst, Palmview, Penitas, Pharr, Port Isabel, Primera, Progreso, Rancho Viejo, Raymondville, Rio Hondo, San Benito, San Juan, Santa Rosa, and Weslaco, Texas. Such service shall be provided at any point on the Company's System where adequate capacity and gas supply exists, or where such capacity and gas supply can be provided in accordance with the applicable rules and regulations and at a reasonable cost as determined by the Company in its sole opinion.

COST OF SERVICE RATE

During each monthly billing period, a customer charge per meter per month listed by customer class as follows:

Commercial	\$483.62 per month
Industrial	\$1,153.88 per month
Public Authority	\$487.93 per month

Plus – All Ccf per monthly billing period listed by customer class as follows:

Commercial	The First 5000 Ccf @	\$0.31650 per Ccf
	All Over 5000 Ccf @	\$0.01777 per Ccf

**TRANSPORTATION SERVICE RATE
(Continued)**

Industrial	The First 5000 Ccf @	\$0.30336 per Ccf
	All Over 5000 Ccf @	\$0.03453 per Ccf
Public Authority	The First 5000 Ccf @	\$0.38068 per Ccf
	All Over 5000 Ccf @	\$0.01595 per Ccf

ADDITIONAL CHARGES

- 1) A charge will be made each month to recover the cost of taxes paid to the State of Texas pursuant to Texas Utilities Code, Chapter 122 as such may be amended from time to time which are attributable to the transportation service performed hereunder.
- 2) A charge will be made each month to recover the cost of any applicable franchise fees paid to the cities.
- 3) In the event the Company incurs a demand or reservation charge from its gas supplier(s) or transportation providers in the unincorporated areas of the Rio Grande Valley Service Area, the customer may be charged its proportionate share of the demand or reservation charge based on benefit received by the customer.
- 4) Adjustments in accordance with provisions of the Rate Case Expense Surcharge Rider RCE.
- 5) The billing shall reflect adjustments in accordance with provisions of the Pipeline Integrity Testing Rider, Rate Schedule PIT.
- 6) The billing shall reflect adjustments in accordance with provisions of the Excess Deferred Income Taxes Rider, Rate Schedule EDIT-Rider.

SUBJECT TO

- 1) Tariff T-TERMS, General Terms and Conditions for Transportation.
- 2) Transportation of natural gas hereunder may be interrupted or curtailed at the discretion of the Company in case of shortage or threatened shortage of gas supply from any cause whatsoever, to conserve gas for residential and other higher priority customers served. The curtailment priority of any customer served under this schedule shall be the same as the curtailment priority established for other customers served pursuant to the Company's rate schedule which would otherwise be available to such customer.
- 3) Subject to all applicable laws and orders, and the Company's rules and regulations on file with the regulatory authority.

Ben Medina

From: Robert L. Drinkard <rldrinkard@rampagelaw.com>
Sent: Tuesday, July 5, 2022 10:15 AM
To: Ben Medina; Lucia Garza
Cc: Veronica Duron
Subject: FW: ACTION REQUIRED: 2022 TGS RGV COSA Settlement Documents
Attachments: Exhibit A_Tariffs.pdf; 2022 Model Staff Report.DOCX; 2022 RGV COSA Settlement Ordinance.DOCX

ATTORNEY - CLIENT COMMUNICATION
PRIVILEGED & CONFIDENTIAL

Ben:
See attached below. I think RH was part of this. Please confirm.

Robert L. Drinkard
Partner
DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C.
Rio Grande Valley Office
956/421-4904 (office)
956/421-3621 (fax)
rldrinkard@rampagelaw.com
www.rampagelaw.com

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From: Ric J. Navarro <rjnavarro@rampagelaw.com>
Sent: Friday, July 1, 2022 2:06 PM
To: Rebecca Hayward <rshayward@rampagelaw.com>; Allison Bastian Rodriguez <abrodriguez@rampagelaw.com>; Robert L. Drinkard <rldrinkard@rampagelaw.com>
Subject: FW: ACTION REQUIRED: 2022 TGS RGV COSA Settlement Documents

7/1/2022

FYI. Not sure which cities we still represent that are involved in this.

Ric J. Navarro
DNRBZ, P.C.
rjnavarro@rampagelaw.com

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From: Thomas Brocato <tbrocato@lglawfirm.com>
Sent: Friday, July 1, 2022 1:15 PM

To: Thomas Brocato <tbrocato@lglawfirm.com>

Subject: ACTION REQUIRED: 2022 TGS RGV COSA Settlement Documents

ACTION REQUIRED BY JULY 27

Cities Served by Texas Gas Service (TGS) Company Rio Grande Valley Service Area:

We have reached a settlement of TGS's 2022 Cost of Service Adjustment (COSA) case. In its application, filed on April 28, the Company requested a system-wide increase of \$3,717,040. After settlement discussions earlier this week, the parties agreed to an increase of \$2,750,000. This equates to a \$967,040 reduction to the Company's request. This compares to \$3,842,357 that was approved last year. We believe this is a good outcome and recommend the cities adopt these terms. The new rates will go into effect with meter reads after July 27. I am attached the documents you will need for your city to approve the TGS RGV COSA. I have attached three items to this email:

1. An ordinance your City may use to adopt the attached settlement agreement.
2. The new tariffs. These should be identified as Attachment A to the Ordinance.
3. A model staff report.

You will notice that there is no separate settlement agreement. By adopting the tariffs you will be adopting rates consist with our agreement. Please set this on an agenda prior to July 27. Once you have adopted the ordinance and tariffs, please send a signed copy to me and to TGS. If you need more time to act, please let me know. Please contact me if you have questions.
Thomas

THOMAS BROCATO

Principal

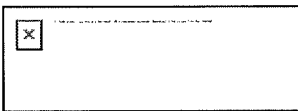
512-322-5857 Direct

512-914-5061

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Ave., Suite 1900, Austin, TX 78701

www.lglawfirm.com | 512-322-5800



****ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT ****

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.

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Item 9

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITY OF RIO HONDO, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE CITY AND TEXAS GAS SERVICE (“TGS” OR “THE COMPANY”) REGARDING THE COMPANY’S APRIL 28, 2022 COST OF SERVICE ADJUSTMENT (“COSA”) FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING NEW TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; PROVIDING FOR THE RECOVERY OF THE CITY’S AND TGS’ REASONABLE AND NECESSARY RATE CASE EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; REPEALING ANY PRIOR ORDINANCES INCONSISTENT WITH THIS ORDINANCE AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY’S AND THE CITY’S LEGAL COUNSEL.

WHEREAS, the City of City of Rio Hondo, Texas (“City”) is a gas utility customer of Texas Gas Service (“TGS” or “the Company”), and a regulatory authority with an interest in the rates and charges of TGS; and

WHEREAS, pursuant to the terms of the agreement settling TGS’ 2017 Statement of Intent to increase rates, to which City was a signatory, the City and other municipalities within the Rio Grande Valley Service Area and TGS worked collaboratively to develop the Cost of Service Adjustment (“COSA”) tariff that allows for an expedited comprehensive rate review process; and

WHEREAS, on or about April 28, 2022, TGS filed with the City a COSA tariff seeking to increase natural gas rates to all customers residing in the City; and

WHEREAS, the Company requested a system-wide increase of \$3,717,040; and

WHEREAS, the City coordinated a review of TGS' COSA filing and designated attorneys and consultants to resolve issues in the Company's COSA filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by the City's rate expert concluded that TGS is able to justify an increase over current rates; and

WHEREAS, the City's attorney and consultant recommend that the City approve the Settlement Agreement reflecting increased revenues of \$2,750,000 on a system-wide basis; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by the City and are just, reasonable, and in the public interest; and

WHEREAS, the negotiated resolution of the Company's COSA filing and the resulting rates are, as a whole, in the public interest; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIO HONDO, TEXAS:

Section 1. That the City Council finds that the existing rates for natural gas service provided by TGS are unreasonable and the new tariffs implementing this Ordinance, which are attached hereto and incorporated herein as Attachment A, are just and reasonable and are hereby adopted.

Section 2. That a rate increase of \$2,750,000 on a system-wide basis is reasonable.

Section 3. That TGS shall reimburse the reasonable ratemaking expenses of the City in processing the Company's rate application.

Section 4. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 5. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 7. That the tariffs attached as Attachment A to this Ordinance shall become effective for meters read on and after July 27, 2022 consistent with the COSA tariff.

Section 9. That a copy of this Ordinance shall be sent to TGS, care of Stephanie Houle, 1301 South Mopac, Suite 400, Austin, Texas 78746, and to Thomas L. Brocato, Special Counsel to the City, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this _____ day of _____, 2022.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney