

**ORDINANCE NO. 22-17**

**AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY AMENDING THE CITY PURCHASING POLICY TO BRING IT INTO CONFORMITY WITH AWARDED FEDERAL FUNDS**

**WHEREAS**, the City has enacted a purchasing policy, a policy which has been amended from time to time since its enactment, and, as the result of an amendment to the statutory law governing purchasing by a Kentucky municipality, the Board of Commissioners finds it necessary to again amend that policy, as is set forth below;

**NOW, THEREFORE, BE IT ORDAINED** that:

## **Purchasing Policy**

The purchasing policy of the City of Richmond shall be administered by the City Manager with the Department Heads being solely responsible for purchases made in their respective departments. The procedure outline below is intended to assure full compliance with all Kentucky Statutes, the US Office of Management and Budget (OMB) CFR (200.317-326 318-327), and to purchase goods and materials at the lowest possible price to the Richmond City Government.

### **SECTION I: Definitions**

1 - 2 CFR 200.1 “Federal award” has the meaning, depending on the context, in either paragraph (1) or (2) of this definition:

(1)

(i) The Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101; or

(ii) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101.

(2) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (2) of the definition of *Federal financial assistance* in this section, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(3) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned, contractor operated facilities (GOCOs).

(4) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

2 - 2 CFR 200.1 “Federal awarding agency” means the Federal agency that provides a Federal award directly to a non-Federal entity.

3 - 2 CFR 200.1 “Grant agreement” - means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

(1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;

(2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.

(3) Does not include an agreement that provides only:

(i) Direct United States Government cash assistance to an individual;

(ii) A subsidy;

(iii) A loan;

(vi) A loan guarantee; or

(v) Insurance.

4 - 2 CFR 200.1 “Micro purchase” - means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of a non-Federal entity's small purchases as defined in § 200.320.

5 - 2 CFR 200.1 “Micro purchase threshold” - means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures (see § 200.320). Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the non-Federal entity and approved by the cognizant agency for indirect costs.

6 - 2 CFR 200.1 “Oversight agency for audit” - means the Federal awarding agency that provides the predominant amount of funding directly (direct funding) (as listed on the schedule of expenditures of Federal awards, see § 200.510(b)) to a non-Federal entity unless OMB designates a specific cognizant agency for audit. When the direct funding represents less than 25

percent of the total Federal expenditures (as direct and sub-awards) by the non-Federal entity, then the Federal agency with the predominant amount of total funding is the designated oversight agency for audit. When there is no direct funding, the Federal awarding agency which is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in § 200.513(b).

7 - 2 CFR 200.1 “Pass through entity (PTE)” - means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

8 - 2 CFR 200.1 “Simplified acquisition threshold” - means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods (see § 200.320). Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR at 48 CFR part 2, subpart 2.1. 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. However, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply.

## **SECTION II: Procurement Procedure**

6. Any vendors being paid with Federal Grant funds must be vetted through SAM.GOV by performing an exclusions search. And vendor excluded by the federal government shall not be paid with federal funds. This is a (free) search at SAM.GOV and no account is needed for exclusions or search exclusions.

## **SECTION VII: Federal Grant Procurement Methods**

As of fiscal year, beginning July 1, 2018 the following five procurement methods must be followed in accordance with the Office of Management and Budget (OMB) CFR (200.317-326 200.318-327) for all Federal Grants: **(Appendix A)**

1. All vendors being paid with Federal Grant funds must be vetted through SAM.GOV by performing an exclusions search. And vendor excluded by the federal government shall not be paid with federal funds. This is a (free search) at SAM.GOV and no account is needed to search for exclusions.

## **SECTION X: Conflict of Interest**

The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every City of Richmond written contract and solicitation therefore. For further definition of policy regarding Standards of Conduct and Conflicts of Interest, refer to 33:15 – 33:16 of the Richmond Code of Ethics (Appendix B)


Except as amended as set forth above, the existing purchasing policy shall remain in full force and effect in accordance with its present tenor.

This Ordinance shall take effect immediately upon its adoption following second reading, and publication in accordance with the requirements of applicable law.


**DATE OF FIRST READING:** April 26, 2022  
**MOTION BY:** Commissioner McDaniel  
**SECONDED BY:** Commissioner Arnold

**DATE OF SECOND READING:** May 10, 2022  
**MOTION BY:** Commissioner Brewer  
**SECONDED BY:** Commissioner Arnold

<b>VOTE</b>	<b>YES</b>	<b>NO</b>
Commissioner Arnold	x	
Commissioner Brewer	x	
Commissioner McDaniel	x	
Commissioner Newby	x	
Mayor Blythe	x	

  
\_\_\_\_\_  
Mayor Blythe

ATTEST:   
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney