

# **Financial Policies**

## **Sumter County, Georgia**

### **Section 1. Purpose and Objective**

Sumter County has a responsibility to carefully account for public funds, to manage municipal finances wisely, and to plan for the provision of public services. Sound financial policies are necessary to carry out these objectives responsibly and efficiently.

Sumter County's financial policies set forth below are the basic framework for its overall financial management. These policies incorporate long-standing principles and traditions that have served the County well in maintaining a sound and stable financial condition.

The broad purpose of the following financial policies is to enable Sumter County to achieve and maintain a long-term positive financial condition. The key values of the County's financial management include fiscal integrity, prudence, planning, accountability, honesty, and openness. Specifically, the purpose is to provide guidelines for planning, directing, and maintaining day-to-day financial affairs.

## Section 2. Operating Budget

### A. Preparation

Budgeting is an essential element of the financial planning, control, and evaluation process of municipal government. The “operating budget” is the County’s annual financial operating plan. The annual budget includes the operating departments of the general fund, special revenue funds, debt service funds, capital project funds, enterprise funds, and other approved funds that may be established as needed. The budget encompasses a fiscal year that is set forth by ordinance of the Board of Commissioners. The budget is prepared by the Finance Director and County Administrator with the cooperation of all County departments, and Constitutional offices on a basis that is consistent with generally accepted accounting principles.

1. Proposed Budget – A proposed budget shall be prepared annually by the Finance Director and County Administrator with participation of all County departments and constitutional offices consistent with provisions of local and state budget laws.
  - a. The budget shall include (1) revenues, (2) personnel costs, (3) operating and maintenance supply costs, (4) general services costs, and (5) capital and other (non-capital) costs.
  - b. The budget review process shall include public hearings. At the time the proposed budget is transmitted to members of the Board of Commissioners by the County Administrator, a copy will be made available for public inspection and advertised in the County’s legal organ. No earlier than seven days after the proposed budget is transmitted to the Board of Commissioners and at least seven days in advance of budget adoption, a public hearing takes place to give the public an opportunity to comment on the proposed budget. Notice of public hearing must be advertised at least seven days in advance of the public hearing.
  - c. The Board of Commissioners, prior to the first day of the fiscal year, will adopt an annual budget at a public meeting. The annual budget shall be advertised at least one week prior to the meeting. The proposed budget is prepared and transmitted to members of the Board of Commissioners for its review with sufficient time given for the Board of Commissioners to address policy and fiscal issues.
2. Adoption – The budget shall be adopted by the approval of a budget resolution that specifies the anticipated revenues by appropriate categories, the proposed

expenditure totals for each department, each non-departmental expense, and for each fund covered by the budget. The budget shall be adopted at the fund/department/object code level, which is the local level of budgetary control. Amendments to the budget outside the local level of budgetary control must be approved by the Board of Commissioners. The current year's budget may be adjusted to reflect changes in local economy, changes in priorities or service needs, receipt of unbudgeted revenues and for unanticipated expenditures.

**B. Balanced Budget**

The operating budget will be balanced with anticipated revenues equal to proposed expenditures. All other funds budgeted shall also be balanced.

**C. Process**

The County will utilize a decentralized budget process. All departments will be given an opportunity to participate in the budget process and submit funding requests to the County Administrator.

**D. Planning**

The General Fund is based on a long-range financial plan which includes unallocated fund reserves. The goal is to keep the reserve at approximately fifteen percent of budgeted expenditures. This reserve protects the County against catastrophic revenue losses and major emergency expenditures.

**E. Reporting**

Periodic financial reports will be prepared and distributed to all Departments. These reports allow Elected Officials, Department Directors and Controlling Boards to review their budgets and enable the County Administrator to monitor and control the budget. Summary financial and budgetary reports should be presented by the County Administrator and to the Board of Commissioners monthly.

**F. Control and Accountability**

Each Elected Official, Department Director, or Controlling Board is responsible for ensuring that his/her/their department expenditures do not exceed budgeted funds. Departments cannot exceed appropriations described in the budget.

Failure to achieve budgetary control will be evaluated and investigated by the County Administrator.

**G. Performance Measures**

The County integrates performance measures and objectives into the budget document. The County will also develop a system to monitor performance in meeting these objectives.

#### **H. Budget Transfers**

Within the overall budget limitations, authority is hereby delegated to the Finance Director to transfer funds from one budget line-item to the other within a department, provided the line-items affected by said transfer are within the same budgetary category. For purposes of this provision, the budget categories will be: Personal Services, Contract Services, Supplies, and Capital Outlay. For Elected Official's budgets only, the Finance Director is authorized by the Elected Official of that office to transfer funds from one budget line-item to another within the total Elected Official's budget without regard to category except those related to Personal Services which are salary related items. The Board of Commissioners must approve transfers of any salary related items. No increase in the overall budget can be made without the approval of the Board of Commissioners and amendment to the budget. This includes grant awards which must be approved by the Board of Commissioners prior to acceptance.

## **Section 3. Capital Budget Policies and Capital Improvement Plan**

### **A. Scope**

A capital projects plan will be developed and updated annually. A five-year Capital Improvement Program will assist in the planning, acquisition, and financing of capital projects. A major capital project is generally defined as a non-recurring capital expenditure that has an expected useful life of more than 10 years and an estimated total cost of \$25,000 or more. Examples include computer server systems, trucks, loaders, and expansion of facilities.

Major capital projects will be budgeted in the Capital Improvement Fund reflecting all available resources. With the involvement of responsible departments, the Finance Director and County Administrator will prepare the capital budget annually. The County's capital budget will be adopted with the operating budget.

### **B. Control**

All capital expenditures must be approved as part of each department budget or in the Capital Improvement Fund. Before committing to a capital improvement project, the County Administrator or his/her designee must verify fund availability.

### **C. Program Planning**

The capital budget provides annual funding for long-term capital projects identified in the Capital Improvement Program (CIP). During the annual budget process, each department submits a budget request including operating and capital needs. Upon review of the requests, major capital projects are placed in the capital improvements fund. Other capital outlay is placed in the department's operating budget. Capital outlay is generally defined as an individual item of excess of \$5,000 with a life expectancy of more than two years.

Countywide capital improvements are assessed and prioritized based on the County's objectives and goals, the County's comprehensive work plan, and the County's strategic plan.

### **D. Timing**

At the beginning of the fiscal year, the County Administrator or his/her designee will work with Elected Officials, Department Directors, and Controlling Boards to schedule the appropriate timing of capital purchases to ensure the availability of funds.

### **E. Reporting**

Periodic financial reports will be provided to enable the County Administrator to monitor and control the capital budget and to enable the Elected Officials, Department Directors, and Controlling Boards to manage their capital budgets.

## **Section 4. Debt**

### **A. Policy Statement**

Debt results when one borrows from an individual or an institution. The borrower receives funds to acquire resources for current use with an obligation for repayment later. The debt from borrowing generally must be repaid with interest.

Sumter County recognizes that to maintain flexibility in responding to changing service priorities, revenue inflows, and cost structures, a debt management strategy is required. The County strives to balance service demands and the amount of debt incurred. The County realizes that failure to meet the demands of growth may inhibit its continued economic viability, but also realizes that too much debt may have detrimental effects as well.

The goal of the County's debt policy is to maintain a sound fiscal position and to protect the credit rating of the County. When Sumter County utilizes debt financing, it will ensure the debt is financed soundly and conservatively.

### **B. Conditions for Using Debt**

Debt financing of capital improvements and equipment will be done only when one or more of the following four conditions exist:

1. When non-continuous projects (those not requiring continuous annual appropriations) are desired;
2. When it can be determined that future users will receive a benefit from the improvement;
3. When it is necessary to provide basic services to residents and taxpayers;
4. When total debt, including that issued by overlapping government entities, does not constitute an unreasonable burden to residents and taxpayers.

### **C. Sound Financing of Debt**

When the County utilizes debt financing, it will ensure that the debt is soundly financed by:

1. Taking a prudent and cautious stance toward debt, incurring debt only when necessary;
2. Conservatively projecting the revenue sources that will be used to pay the debt;

3. Insuring that the term of any long-term debt incurred by the County shall not exceed the expected useful life of the asset for which the debt is incurred and shall be limited to capital improvements only;
4. Determining that the benefits of the improvement exceed the costs, including interest costs;
5. Maintaining a debt service coverage ratio which ensures that combined debt service requirements will not exceed revenues pledged for the payment of debt;
6. Analyzing the impact of debt service on total annual fixed costs before bonded long-term debt is issued; and,
7. Maintaining total debt service for general obligation debt that does not exceed 10 percent of the net operating revenues. Net operating revenues are all general fund revenues available after accounting for transfers between other County funds.

## **Section 5. Accounting, Audits, and Financial Reporting**

The County shall maintain a system of financial monitoring, control, and reporting for all operations and funds in order to provide effective means of ensuring that overall County goals and objectives are met.

### **A. Accounting Records and Reporting**

The County will maintain its accounting records in accordance with state and federal laws and regulations and in a manner to facilitate an efficient audit process. The County will report its financial condition and results of operations in accordance with state regulations and Generally Accepted Accounting Principles (GAAP) described in Governmental Accounting, Auditing, and Financial Reporting (GAAFR). The County's accounts shall be kept in such a manner as to show fully the financial conditions of the County. In addition, the books shall be open to the public during business hours.

The County will maintain a Chart of Accounts that complies with requirements of the State of Georgia and is in accordance with generally accepted accounting principles.

### **B. Auditing**

An independent auditor or auditing firm will annually perform the County's financial audit. The auditor must be a Certified Public Accountant (CPA) that can demonstrate that s/he has the capability to conduct the County's audit in accordance with generally accepted auditing standards. A copy of the audit will be sent to the State Auditor who will respond with comments regarding compliance. Results of the annual audit shall be provided to the Board of Commissioners in a timely manner.

### **C. Simplified Fund Structure**

The County will attempt to minimize the number of funds. Funds will be categorized in accordance with generally accepted accounting principles (GAAP) for reporting purposes. The stated goal of minimizing the number of funds should not restrict the number of funds necessary to adequately partition the accounting function. The Finance Director and/or County Administrator shall make the determination regarding the adequacy of the number of funds.

## Section 6. Revenues

### A. Characteristics

The County shall strive for the following characteristics in its revenue structure:

1. Simplicity – The County shall strive to maintain a simple revenue structure in order to reduce compliance costs for the taxpayer and/or service recipient. A corresponding decrease in the County’s cost of collection and a reduction in avoidance to pay should result.
2. Equity – The County shall make every effort to maintain equity in its revenue system. The County shall seek to minimize subsidization between entities and funds.
3. Adequacy – The County shall require that a balance in the revenue system be achieved. The revenue structure’s base shall have the characteristics of fairness and neutrality as it applies to cost of service, willingness to pay, and ability to pay.
4. Administration – The benefits of a revenue source shall exceed the cost of levying and collecting that revenue. The price of collection shall be reviewed periodically for effectiveness as a part of the indirect cost of service analysis.
5. Diversification and Stability – The County shall maintain a diversified and stable revenue structure to shelter it from short-term fluctuations in any single revenue source. The revenue mix shall combine elastic and inelastic revenue sources to minimize the effect of economic downturns.
6. Conservative Estimates – Revenues will be estimated realistically and prudently. Revenues of a volatile nature will be estimated conservatively. Conservative revenue estimates based on prior year collections may be used for revenue projections.
7. Aggressive Collection Policy – The County shall follow an aggressive policy of collecting revenues. As a last resort, real property will be sold to satisfy non-payment of property taxes.

## B. Issues

The following considerations and issues will guide the County in its revenue policies concerning specific sources of funds:

1. Non-Recurring Revenues – One-time or non-recurring revenues shall not be used to finance current ongoing operations. Non-recurring revenues should be used only for non-recurring expenditures and will not be used for budget balancing purposes.
2. Property Tax Revenues – All real and business personal property located within the County shall be valued at 40% of the fair market value for any given year based on the current appraisal supplied to the County by the Board of Tax Assessors.
3. User-Based Fees and Service Charges - For services associated with a user fee or charge, the direct and indirect costs of that service shall be offset by a fee where possible. There will be an annual review of fees and charges to ensure that the fees provide adequate coverage of cost. The Board of Commissioners shall set schedules of fees and charges.
4. Intergovernmental Revenues (Federal/State/Local) - These grant revenue sources will be expended only for the intended purpose of the specific grant aid. It must be clearly understood that operational requirements set up as a result of a grant or aid could be discontinued once the term and conditions of the project have terminated.
5. Revenue Monitoring - Revenues received shall be compared to budgeted revenues. Significant variances will be investigated by the County Administrator or designee.

## **Section 7. Purchasing**

### **A. Intent**

The purpose of this policy is to provide guidance for the procurement of goods and services in compliance with procurement provisions of the County and the State of Georgia. The goal of this policy is to establish, foster, and maintain the following principles:

1. To consider the best interests of the County in all transactions;
2. To purchase without prejudice, seeking to obtain the maximum value for each dollar expenditure with maximum quality standards;
3. To subscribe to and work for honesty and truth in buying.

### **B. Vendors**

The County will make every effort to obtain high quality goods and services at the best possible price. All procurement procedures will be conducted in a fair and impartial manner with avoidance of any impropriety. All qualified vendors have access to County business. No bidder will be arbitrarily or capriciously excluded. It is the intent of the County that competition be sought to the greatest practical degree. The conditions of the contract shall be made clear in advance of the competition. Specifications shall reflect the needs of the County.

#### **1. Solicitation of Vendors**

Vendors wishing to be considered by the County may consult directly with Elected Officials, Department Directors, and Controlling Boards but are subject to any and all other purchasing policy requirements. Vendors may also elect to sign up through Sumter County's web site to automatically receive notice of RFP/RFQ's which are published to the web site. Any purchase over \$ \$25,000, except emergency purchases, must be submitted for formal competitive bidding.

#### **2. General Statement of Ethical Conduct**

Sumter County employees and officials involved in the purchasing process shall discharge their duties in an impartial and unbiased manner so as to ensure fair and competitive access to procurement by responsible vendors and contractors. Further, they shall conduct themselves in a manner, which will foster public confidence in the integrity of the Sumter County personnel involved in the procurement process. To achieve this purpose, it is essential that Sumter county personnel involved in the procurement process observe certain prescribed ethical standards of conduct.

- **Conflict of Interest:** It shall be a breach of ethical standards for any county employee and/or official to participate directly or indirectly in a procurement when there is knowledge that:
  - a. The County employee and/or official or a member of their immediate family has a financial interest pertaining to the procurement.
  - b. A business or organization in which the county employee and/or official, or any member of the their immediate family, had financial interest pertaining to the procurement; or
  - c. Any person, business or organization with which the county employee and/or official, or any member of their immediate family, is negotiating or has arrangements concerning prospective employment, is involved with the procurement.
  
- **Discovery of Actual or Potential Conflict of Interest, Disqualification and Waiver:** Upon discovery of an actual or potential conflict of interest, a county official shall promptly file a written statement of disqualification with the County Administrator or the County Administrator's appointed representative, and shall withdraw from further participation in the transaction involved. The county official may, at the same time, apply to the County Administrator or County Attorney for an opinion as to what further participation, if any, the employee may have in the transaction. Any county official who fails to comply with the provisions of this may be subject to disciplinary action.
  
- **Disclosure Requirements:**
  - a. Disclosure of Benefit Received from a Contract: Any county official who has, or obtains any benefit from any contract with a business in which the county official has a financial interest shall report such benefit to the County Administrator.
  
  - b. Failure to Disclose Benefit Received: Any county official who knows or should have known of such benefit and fails to report such benefit to the County Administrator is in breach of the ethical standards of this section, and may be subject to disciplinary action.
  
- **Contemporaneous Employment:** It shall be considered unethical for any Sumter County employee who is involved in the purchasing process to

become or to be, while a County employee, the employee of any person contracting with or doing business with Sumter County.

- **Personal Gain:** It shall be unethical for any employee involved in the purchasing process to realize, or attempt to realize, personal gain through their involvement in the purchasing process.
- **Gratuities and Kickbacks:** It shall be considered unethical for any person to offer, give or agree to give any county official or employee or for any county official or employee to solicit, demand, accept or agree to accept a gratuity or benefit in connection with any purchasing or procurement decision. "Premium gifts" provided by vendors shall be held by the Board of Commissioners office until such time as there is a County function where employees are selected by draw to obtain an item.
- **Use of Confidential Information:** It shall be a breach of ethical conduct for any employee involved in the purchasing process to knowingly use confidential information for their anticipated or actual gain, or for the actual or anticipated gain of another person.

### 3. Request for Proposal

It is suggested that, whenever appropriate, a Request For Proposal (RFP) process be used for procuring products and services. The RFP should specify the service, evaluation criteria, and terms and conditions required by the County. Per state law, large purchases should be advertised in the legal organ and other venues as time and advertising funds allow.

### 4. Bids

- Any purchase over \$ \$25,000, except emergency purchases, must be submitted for formal competitive bidding. Written specifications must be submitted by the requesting department to the County Administrator.
- Bid number or title must be clearly marked on envelope to avoid opening a bid in error.
- Written specifications contained in a bid can be changed only by a written addendum.
- All bids must be received and in-hand at time and place specified. The bidder assumes responsibility for having the bid received at the designated time and place. Bids received after stated time shall not be considered. No responsibility shall be attached to the County for premature opening of bid not properly addressed or identified and/or not delivered properly.

- All bids will be opened in public and read aloud at time and place established for bid openings. Bids will be opened by County Administrator or his/her designee.
- Unless otherwise stated, all bids will be received at the Board of Commissioners, 500 West Lamar St, Americus, GA 31709.
- Unless otherwise stated, all bids submitted and opened shall be valid and not withdrawn for 90 days from date of opening. A bidder may withdraw before the date and time to receive bids.
- Bids must include: name of business, mailing address, name, title and signature of person submitting the bid.
- Bids are awarded to the lowest responsive and responsible bidder. A responsive bidder means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals. A responsible bidder means a contractor, supplier, or vendor, qualified on the basis that it (1) has adequate financial resources to perform under the terms of the contract, (2) is able to comply with the associated legal or regulatory requirements, (3) is able to deliver goods and/or services in a timely manner according to the contract schedule, (4) has a history of satisfactory performance, (5) has good reputation regarding integrity, (6) has or can obtain necessary data, equipment and facilities, and (7) is otherwise eligible and qualified to receive award if its bid or proposal is chosen.
- Purchases and services will be made and acquired from vendors located and doing business within Sumter County whenever the price is the lowest reasonable price and the vendor otherwise meets

the specifications of the bid, or whenever the price differential between bids is no more than five (5%) per cent of the total. This local preference does not apply to public works construction projects subject to Public Works contracts exceeding \$100,000 in accordance with Chapter 91 of Title 36 of the Official Code of Georgia also known as the “Georgia Local Government Public Works Construction Law.”

- Purchases associated with construction projects self-performed by the government may be made and acquired utilizing a written formal quote process when time and/or financial constraints warrant and must be done only following the Board of Commissioners consent.
- If the same unit price or total amount, quality and service being equal, the vendors who tied shall be contacted and informed of the County’s intention of asking them to re-bid.
- A bidder may withdraw his proposal before the date and time for the cut off to receive bids without prejudice by submitting a written request of withdrawal to the Board of Commissioners.
- The County may reject any and all bids and may reject a bid of any party who has not performed or delivered on any formal contract with the County or who is listed as a debarred contractor for Federal and State programs.

- The County may reject any and all bids and may reject a bid of any party who has delinquent bills with the County unless payment arrangements are made.
- By submitting a proposal the bidder represents and warrants that such bid is genuine and not in collusion with another bidder, and the bid is not made in the interest or in behalf of any person not therein named. By submitting a bid, the bidder represents and warrants that neither a Commissioner nor a County employee has, in any manner, an interest, directly or indirectly in the bid or in the contract which may be made, or in any expected profits to arise there from.
- The Sumter County Board of Commissioners reserves the right to reject any and all bids, to waive any informality and to award a contract which would be in the best interest of the County.

##### 5. Bid Specifications

Keep specifications simple while maintaining the clarity required keeping bidders from utilizing a loophole to avoid prodding the quality of goods or services required.

Identify the equipment or material required with some standard specification already on the market. Specifications that utilize name brands must include the term “or equivalent” or “equal” to avoid being restrictive and eliminate fair competition. Any deviation from this directive (for instance in such cases as equipment which is specified by brand for safety and continuity of service purposes) shall be prior approved by the Board of Commissioners a manner similar to a Sole Source request.

Specifications should consider only the essential functions and characteristics of the goods and services to be purchased. A function or characteristic is one that goods and services must be able to perform with a range of acceptable performance or quality.

Specifications should promote competition. Specifications will normally allow several bidders to provide the county with alternatives and insure the County obtains the lowest possible price.

Specifications should be specific enough to guarantee the quality required but sufficiently flexible to allow vendors to be creative in their proposals.

Specifications should be written with clear, simple language, free of vague terms or those subject to variation in interpretation.

6. Bid Bonds, Performance Bonds and Payment Bonds

Bid bonds, performance bonds and payment bonds are required for Public Works contracts exceeding \$100,000 in accordance with Chapter 91 of Title 36 of the Official Code of Georgia also known as the “Georgia Local Government Public Works Construction Law.” As such, Sumter County generally adopts the “Georgia Local Public Works Construction Law” as it’s official policy for public works construction projects and bidding requirements. However, Sumter County reserves the right, upon approval of the Board of Commissioners, to require bid bonds, performance bonds and payment bonds on any public works contract that is less than \$100,000.00. All contractors submitting a bid will be notified of any bid bond, performance bond and/or payment bond requirement in writing prior to the acceptance of any bid.

**LOCAL VENDOR PREFERENCE POLICY**

7. Local Vendor Preference Policy.

Sumter County recognizes the vital contribution made by local businesses by providing employment and contributing to the local tax base, resulting in a boost to local economic activity, employment, and ultimately, tax revenue.

(a) Definitions. The following terms shall have the meanings listed below:

- (i) “Local vendor” shall mean a vendor which at the time of submission of its bid has a physical presence within the geographic boundaries of Sumter County.
- (ii) “Out-of-county vendor” shall mean a vendor that at the time of submission of its bid does not have a physical presence within the geographic boundaries of Sumter County.
- (iii) “Physical presence” shall mean owning, operating, or occupying office space, a warehouse, or another physical business structure, including principal or satellite locations. Use of a post office box shall not constitute a physical presence.

(b) Bids.

- (i) If the local vendor is responsible, responsive, and within seven percent (7%) of the lowest responsible, responsive bid submitted by any out-of-county vendor, the local vendor will be notified by the County and given the opportunity to reduce its bid to

match the bid offered by the out-of-county vendor. The local vendor shall have three (3) business days after the date of such notice to confirm in writing that it will match the lowest bid and upon doing so will be deemed the lowest responsible, responsive bidder and shall receive the award.

Should the lowest responsible, responsive local vendor decline to match the lowest bid, the County shall provide the same notice and opportunity to the next lowest responsible, responsive local bidder who is within seven percent (7%) of the lowest responsible, responsive out-of-county bidder. This process shall repeat as necessary until an award is made.

- (ii) If a local vendor and out-of-county vendor submit equivalent lowest responsible, responsive bids, preference shall be given to the local vendor.
- (c) Eligibility Requirements. A local vendor shall only be eligible to receive the benefit of this preference if it meets each of the following requirement
  - i. It satisfies the definition of a local vendor by having a physical presence within the geographic boundaries of Sumter County at both the time of submission of its bid and the time of the award of the contract or purchase; and
  - ii. Any taxes or other fees due to the County from the local vendor are paid in full both at the time of submission of its bid and at the time of the award of the contract or purchase;
  - iii. It agrees not to assign or sub-contract more than fifty percent (50%) of the dollar value of the contract to be performed to any entity that is not a local vendor; and
  - iv. It submits a properly executed Affidavit of Eligibility with its bid on the form provided by the County, verifying it meets the criteria for a local vendor.
- (d) Exceptions. The local vendor preference shall not apply to: construction contracts governed by Chapter 91 of Title 36 of the Official Code of Georgia (The Georgia Local Government Public Works Construction Law, as amended); contracts funded by the state or federal government; contracts governed by federal or state statutes or regulations requiring that they be awarded to the lowest responsible, responsive bidder without regard to a local preference; and sole source purchases.



- (e) Application to Requests for Proposals. Requests for Proposals inherently allow the County more flexibility to consider factors other than the estimated price or cost, such as the impact on the local economy and the convenience to the County from contracting with a local vendor. Nonetheless, to the extent that the estimated price or cost is one of the factors evaluated in a Request for Proposals, the County may utilize the Local Vendor Preference Policy. Nothing in this section is intended to create an obligation on the part of the County to place greater emphasis or weight on the estimated price or cost when evaluating responses to Requests for Proposals.

**Bid Bonds** – A contractor shall give a bid bond with good and sufficient surety or sureties approved by the County Commissioners for the faithful acceptance of the contract payable to, in favor of, and for the protection of Sumter County. The bid bond shall be in the amount of not less than five (5%) percent of the total amount payable by the terms of the contract. In lieu of the bid bond the County may accept a cashier's check, certified check, or cash in the amount of five (5%) percent of the total amount payable by the terms of the contract.

**Performance Bond** – The Contractor shall give a performance bond with good and sufficient surety or surety's payable to, in favor of, and for the protection of Sumter County. The performance bond shall be in the amount of at least the total amount payable by the terms of the contract. Any contractor submitting a bid must include a signed letter from a surety committing itself to issuing a bond to guarantee the contractor's performance. Upon notification of a successful bid, performance bonds must be received by Sumter County within five (5) business days after notification by Sumter County of a successful bid. No contracts for public works projects will be entered into without issue of a valid performance bond, which must be approved by the Board of Commissioners prior to the signing of any contract.

**Payment Bond** – A Contractor shall give a payment bond with good and sufficient surety or sureties, payable to Sumter County for the use and protection of all subcontractors and all persons supplying labor, materials, machinery and equipment in the prosecution of the work provided for in the contract. The payment bond shall be in the amount of at least the total amount payable by the terms of the contract and must be received by Sumter County within five (5) business days after notification by Sumter County of a successful bid. No contracts for public works projects will be entered into without issue of a valid payment bond, which must be

approved by the Board of Commissioners prior to the signing of any contract. In lieu of the payment bond the County may accept a cashier's check, certified check, or cash in the amount of the total amount payable by the terms of the contract.

**Irrevocable Letter of Credit** – Where the amount of any bond does not exceed \$300,000, the County may in its discretion, accept an irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. Code Section 7-1-4, in the amount of and in lieu of the bond otherwise required under Code Section 36-91-50.

7. Equal Opportunity

Sumter County will provide an equal opportunity for all businesses to participate in County contracts regardless of sex, race, color, religion, national origin, political affiliation, age handicapped status, or sexual orientation. The County will actively seek to ensure that minority-owned and operated firms have the opportunity to participate in the purchasing process, including bidding, negotiations and contract awards. The County will not knowingly conduct business with contractors that discriminate or permit discrimination against persons because of sex, race, color, religion, national origin, political affiliation, age, handicapped status, or sexual orientation.

8. Ineligible Vendors

Any person, firm, or corporation who is in arrears to the County for taxes, services or other obligations, will not be qualified to bid on any purchase until their lien to the County has been cleared. No requisition will be approved for such vendors.

9. Sole Source

Contracts can be awarded for the provision of supplies/services without competition if it can be demonstrated that the supplier of the material or services is the one or only person capable of providing the material and service **and/or there are technical characteristics inherent making it essential to purchase the particular good or service per particular supplier. Written documentation utilizing the County's Sole Source Justification form is required on all sole source purchases with an aggregate expenditure in excess of \$2,500. Final responsibility in determining whether an item is a proprietary item and may be purchased from a sole source, rests with the Board of Commissioners.**

#### 10. State Contract

The County is authorized to use state contracts in lieu of issuing bids to vendors or buying locally when it is to the economic advantage of the County or deemed appropriate by the County Administrator. The state contract price may be used to establish the maximum price for a good or service.

#### 11. Back-up Policy and Emergency Purchases

The County should strive to decrease dependency on single-source vendors in order to achieve maximum efficiency in its purchases. In order to achieve the County's fiscal independence, it is strongly suggested that

each department have back-up vendors for each recurring and/or large purchase.

In cases of emergency, a contract may be awarded without competitive bidding, but the procurement shall be made with as much competition as the circumstances allow (i.e., informal quotes). An emergency is defined as a threat to life or property, or a safety issue that may be determined by

the County Administrator to be emerging and in need of immediate control, or an unforeseen situation that curtails or greatly diminishes an essential service as determined by the County Administrator. In the event of an emergency, the County Administrator shall be contacted.

### **C. Decentralization of Purchasing Authority**

Purchasing of Goods - Planning for purchases should be done on both a short and long term basis. Last minute purchases should be minimized. Planning will cut down on the number of trips required to obtain materials and minimize the amount of clerical and supervisory time spent on processing purchases.

1. Elected Officials, Department Directors, and Controlling Boards have the responsibility and authority to expend funds budgeted for the operation of their departments. They are expected to control expenditures and to affect savings where possible.
2. For departments with budgets in excess of one million dollars, each Elected Official, Department Director, and Controlling Board will provide the names of the individuals responsible for accessing the purchasing module of the financial system to the Finance Department.

3. Each Elected Official, Department Director, and Controlling Board shall have the authority to purchase individual goods costing less than \$2,500 each as long as costs remain within the approved budget. Each Elected Official, Department Director, and Controlling Board is responsible to ensure that internal control procedures are followed.
4. For individual goods costing over \$2,500, the department shall make every effort to solicit a minimum of three written competitive prices. The documentation of quotes received shall be submitted with the purchase order.
5. In cases of emergency, a contract may be awarded without competitive bidding, but the procurement shall be made with as much competition as the circumstances allow (i.e., informal quotes).
6. To the extent that an emergency condition exists or an item is supplied by only one source, the Elected Official, Department Director, and Controlling Board shall inform the County Administrator.
7. The County is exempt from paying all local and state sales taxes or federal excise taxes. The Finance Department will provide the necessary exemption documents to the vendor upon request. The County is also exempt from State Hotel/Motel taxes and will provide this form to any department needing it for lodging with the State of Georgia.
8. All specifications, bid documents, purchase orders, and supporting documents are public records, which will be made available to citizens, vendors or the media in accordance with the Open Records Act.
9. Personal purchases for employees or officers of the County are prohibited. County employees are also prohibited from using the County's name or the employee's position to obtain special consideration in personal purchases.

#### **D. Purchase Order (PO)**

A "Purchase Order" is a contractual agreement with a supplier of goods or services that specifies payment terms, delivery dates, item identification,

quantities, freight terms and all other obligations and conditions. A Purchase Order (PO) cannot be issued unless sufficient funds are available in the budget. Purchase Orders are documents used to request someone to supply something in return for payment and providing specifications and quantities.

The following is the established County procedure for use of purchase orders:

1. An item or service is required and a purchase requisition is prepared.
2. The requisition is checked for accuracy.
3. The purchase requisition is reviewed for available funding.
4. If funding is not available for that line item a budget transfer or amendment is prepared.
5. If funding is available for the request a determination is made as to whether quotes or formal bids are needed. Informal written quotes are necessary for items over \$2,500. The formal sealed bid process is necessary for items over \$25,000.
6. If the purchase request needs informal quotes or bids the Elected Official, Department Director, or Controlling Board shall follow the appropriate procedures before the issuance of a Purchase Order.
7. After following the formal bidding and award process; all public works construction projects totaling \$100,000 or more must have the Chairman of the Board of Commissioner's signature on the Purchase Order. Public Works construction projects under \$100,000 must have the County Administrator's signature on the Purchase Order per the informed consent of the Board.
8. All purchase orders are printed. The Financial System will indicate "duplicate" upon purchase orders printed more than once.
9. The vendor shall be notified of the Purchase Order number and provided with printed purchase order

as needed. Vendors shall reference the Purchase Order number on submitted invoices.

10. As departments receive goods, verification of quantities and costs should be made.
11. Elected Officials, Department Directors, Controlling Board, (or designee) shall place their signature upon the Invoice submitted with the supporting documentation to the Finance Department for payment.
12. Payments to Vendors shall be made in a timely manner and in accordance with the schedule set forth in the Finance Department.

#### **D. Check Request**

The Check Request form is used to request a check when a purchase order is not necessary. The form is used when no invoice has been received for payment. Supporting documentation must be attached for the request to be approved. Examples for use: advances, registrations and reimbursements.

#### **E. County Credit Cards**

Credit cards are used by Commissioners, County Administrator, County Clerk, Finance Director and Elected Officials. Per County Administrator approval, management level employees will be issued a county credit card. The credit card is to be used for *County business only* to purchase goods, services, or for specific expenditures incurred under approved conditions. The cardholder is the only person authorized use the credit card.

The credit card holder is responsible for documentation and safekeeping of the credit card during the employee's issuance. A receipt for each transaction must be obtained by the employee when a purchase is made using the County credit card. This receipt shall be dated and a description of the service or item purchased and account codes shall be written on the back of every receipt. Each month, the credit card holder must submit on a timely basis documentation of credit card purchases with the credit card bill. Late submittal of credit card documentation may result in credit card privileges being cancelled.

#### **F. Exemptions:**

The following materials and services are expressly exempted from the purchase order system procedures:

1. Real property, real estate brokerage and appraising fees, abstracts of title for real property, title insurance for real property and other related costs of acquisition of real property.
2. Purchases between the County and other governments and/or nonprofit organizations.
3. Dues, memberships and board member fees.
4. Subscriptions.
5. Utilities including but not limited to electric, gas, water and telephone.
6. Printed copyright material including published books, maps, periodicals and technical pamphlets.
  
7. Training, travel, lodging and meal expenses incurred in the normal course of conducting county business.
8. Legal advertisements required by law.

## **Section 8. Employee Travel Costs**

Out-of-State travel of an educational, training, or conference nature shall be presented to the County Administrator at least 60 days prior to the event for authorization or presentation to the Board of Commissioners for approval. For travel within the state, the determination and authorization of travel, as appropriate and necessary for County objectives, is the responsibility of the Elected Official, Department Director, or Controlling Board immediately involved. The authorization of the reimbursement to the traveler is the responsibility of the employee's supervisor and/or Elected Official, Department Director, or Controlling Board. The traveler is certifying with signature that all expenses are correct and incurred in performance of County-related business. This entails, in addition to determining that the travel is appropriate and necessary, that the mode of travel and the cost thereof, as well as related costs of food and lodging, are appropriate and reasonable in terms of the stated purpose of the travel and are in compliance with this travel policy. Consideration should always be given to achieving the purpose of the travel in the most economical and efficient manner. Only costs incurred in appropriately authorized County (business) travel are allowable.

### **A. Travel Advances**

A travel advance for travel related expenses may be made upon a written check request form. Such request should be made two weeks in advance to accommodate the government's accounts payable payment schedule. The request should have accompanying documentation from the training or conference organization indicating all detail regarding the training or conference including location, dates, meals provided and credits to be obtained. Travel advances are allowable only for meals, lodging, and transportation. Travel advance payments will be made in the form of a check payable to the employee. No advance will be made for less than \$25.00.

### **B. Transportation**

#### **(1) Private Automobile**

a. Authorization – Travel inside or in close proximity to Sumter County should be made in a government vehicle if available. The use of a private automobile on official County business may be authorized if the traveler so

elects, and it is determined by the applicable Elected Official, Department Director, or Controlling Board not to be disadvantageous to the County or the purpose of the trip. Whenever possible, employees are encouraged to travel together in private automobiles and submit one claim for reimbursement.

b. Reimbursement Rate - Reimbursement for use of a privately owned automobile will be based on the standard mileage rate set by the I.R.S., and will be limited to the most economical usually traveled routes. Additional expenses such as parking will also be reimbursed.

(2) Commercial Aircraft

Class Restriction - Reimbursable air transportation costs are limited to those fares less than first class and business. If special and reduced fares are available, they should be secured. Employees making reservations for out-of-state travel should request the least expensive airfare available at the time reservations are made. State contracted airfares may be available at the travel agencies. You should request these airfare rates when contacting the agency.

**C. Meals – Per Diem**

(1) A per diem rate of \$30 per day shall be paid for each full day spent away on County business and the following breakdown will apply for partial days of travel:

	Rate
Breakfast	\$10
Lunch	\$15
Dinner	\$25
Total	\$50

**D. Lodging**

Employees should request a check payable to the hotel/motel well in advance of needed lodging. This would save the cost of state taxes and hotel/motel taxes. Local and State government employees are exempt from hotel/motel taxes under Georgia Code 48-13-51 while on official business in state. These tax exempt forms would be prepared and sent with the check back to the requesting person.

It should rare that lodging expenses are paid directly by employees but if needed these expenses will be reimbursed for the actual cost incurred as per these policies.

#### **E. Receipts**

Employees are responsible for keeping receipts and documents associated with travel expenses incurred while on County business. Any advance paid in excess of receipts shall be paid back to the County.

#### **F. Reimbursement of Expenses**

A request for reimbursement of travel expenses shall be submitted with all applicable receipts to the Finance Department within fifteen (15) calendar days following the date of return to work. Such request shall be made on the travel reimbursement request form and contain a listing of all expenses incurred for such travel and must be approved and signed by the employee's supervisor and/or Elected Official, Department Director, or Controlling Board Chairman. The request should have accompanying documentation from the training or conference organization indicating all detail regarding the training or conference including location, dates, meals provided and credits to be obtained. Verification of credits obtained may be requested from the training organization for the Finance/Human Resource department files.

#### **G. Unallowable Expenses**

The following expenses are specifically unallowable for payment:

1. Expenses incurred by any person other than the employee.
2. Expenses for entertainment.
3. Laundry or valet service.
4. Personal articles, toiletries, souvenirs, etc.
5. Payments to friends or other individuals for costs of meals, lodging, or transportation not a part of the authorized activity or program.
6. Direct expenses of operating a personal vehicle, such as gasoline, oil, parts, or repairs.
7. Travel and related expenses incurred from an employee's residence to his designated work site.
8. Hotel amenities charges such as movies, games, telephone, internet services and mini-bars.
9. Expenses incurred on training trips where the traveler chooses not to attend the intended training sessions.
10. Hotel room upgrades from conference/training room rates as noted on documentation regarding conference/training.
11. Any expenses incurred that are unrelated to official government business or activities.
12. Hotel expenses for events that are less than 50 miles (distances may be determined from Ga. Department of Transportation Mileage Chart)

from regularly assigned work site or employees residence (whichever is closer at time of departure), unless at least one of the following criteria is met:

- a. An employee is part of a planning or conference committee that requires early arrival for pre-event activities. (Substantiated by Conference Committee)
- b. There is less than a 12 hour span of time **between two scheduled itinerary<sup>1</sup> events** occurring on consecutive days. i.e. The last scheduled event ends at 9:00 p.m. on one day and the next day begins at 8:00 a.m.
- c. A scheduled itinerary<sup>1</sup> that requires attendance for more than a 12 hour span in a one day. i.e. Events begin at 8:00 a.m. and end at 9:00 p.m.

If an employee chooses to stay overnight and at least one of the distance requirements exceptions listed in a, b., or c., are not met, then the employee will only be reimbursed to the extent that is permissible if the employee were traveling to and from the training site each day.

13. Reimbursement for breakfast and dinner meals for meetings that are less than 50 miles from regularly assigned work site unless itinerary for any day begins before 8:00 a.m. and/or ends after 6:00 p.m. In the case of a partial day, if a conference ends at or after 12:00 p.m., the noon meal would be a covered expense.
14. Reimbursement to employees for mileage and/or meals for travel within the boundaries of Sumter County for training programs identified in Section 5.11. as approved Educational Incentive Courses in the Sumter County Personnel Policies and Procedures. Meal cost may be negotiated at the discretion of the government with the training site and subsequently included in the training program cost paid by Sumter County on behalf of the employees. Employees are encouraged to car pool in government vehicles whenever possible.

<sup>1</sup> Itinerary is defined as a published document by the conference/training officials that outlines all required events as well as dinners, social, team building activities. This includes at a minimum a brief description, time and location of all events and cost for attendance of required and optional sessions.

## **Section 9. Cash Management**

### **A. Plan**

Objectives of this plan are to increase the amount of idle moneys invested, generating non-tax revenues through increased investment earnings at the same time ensuring safety and liquidity of the County's moneys. Internal controls will be implemented designed to prevent losses of public funds, arising from fraud, employee error, misrepresentation of third parties, or imprudent actions by employees and officials of Sumter County. The finance director will ensure, whenever possible, separation of duties for handling public funds and assets.

### **B. Banking**

The finance director shall devise and implement a central depository system for the County. This system shall include all funds not specifically designated to be held in a separate banking account, such as SPLOST funds. The central depository account shall be an interest bearing account.

Sumter County will select depositories through formal requests for proposals issued as needed. In selecting depositories, objective business criteria will be used. The creditworthiness of the institutions will be a fundamental consideration.

No official or employee of the County shall have the authority to open a bank account in the name of the County. Elected Officials that have need to establish checking accounts shall notify the Finance Department.

### **C. Receipts**

Deposits are to be made daily, when possible, no later than 2:00 P.M. to ensure that the deposit will be credited for that day. Deposits shall be made by the Finance Director or the director's designee. Checks received and deposited which are returned for insufficient funds will be immediately copied for the department which accepted the funds for prompt collection.

No official or employee of the County shall have the authority to cash a check payable to Sumter County except made payable to Sumter County Petty Cash.

### **D. Disbursements**

The object of cash management with regards to disbursements is to retain moneys for investment until the agreed upon contractual date of payment unless early payment provides a benefit to the County.

Major allocation payments to entities from the County will be paid the first week of the month. Obligations shall be paid by due date. The finance director shall periodically review the disbursement cycle and changes shall be made if the disbursement cycle can be extended.

The finance director shall encourage a system of inventory and supply checks to ensure that the materials on hand are sufficient to keep the county operating in an efficient manner. All payments to one vendor shall be consolidated. Checks shall be mailed in a timely manner so as not to miss due dates.

Payroll checks will be authorized by time sheets kept by employees and signed by supervisor. Salaried employees shall submit a time sheet also for purposes of tracking leave accrual and use. No payroll checks will be issued without proper documentation in Human Resources department. The finance department will submit all payroll deductions to the proper agencies and all payroll reports to the proper agencies in a timely manner.

#### **E. Petty Cash**

Petty Cash is maintained in only a few of Sumter County departments; Code Enforcement, Recreation, and Fire. These funds are for small expenditures that are generally less than \$50 in cost. Approval must be given by a Department Director before the money is released by the Petty Cash Custodian of that department. The Finance Director must approve any department receiving a petty cash fund and will provide and receive signed receipt of procedures.

Department Directors should limit use of petty cash funds by proper planning procedures. The County Administrator and/or the County Finance Department may request an audit and/or review at any given time with regards to a daily balance and fund usage. Poor planning is not an excuse for over use of the petty cash fund.

#### **F. Unclaimed and Uncashed Checks**

As a matter of policy, Sumter County abides by State regulations with regards to procedures associated with unclaimed property. First and foremost, the County attempts to contact payees of unclaimed and uncashed checks in order to promote good relations with employees and vendors and also maintain internal control standards.

For tax reporting purposes, the finance department considers uncashed and unclaimed checks to have been received and cashed by payee.

## **Section 10. Investments**

### **A. Scope**

This investment policy applies to all funds under Sumter County's control.

### **B. Objectives**

The following investment objectives shall be met with this policy:

1. Safety - Preservation of principal shall always be the foremost objective in any investment transaction involving County funds. Those investing funds on the County's behalf must first ensure that capital losses are avoided by limiting credit and interest risk. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest risk is the risk that market value portfolios will fall due to an increase in general interest rates.
2. Liquidity - The second objective shall be the maintenance of sufficient liquidity within the investment portfolio. The County's investment portfolio shall be structured such that securities mature at the time when cash is needed to meet anticipated demands (static liquidity). Additionally, since all possible cash demands cannot be anticipated, the portfolio should maintain some securities with active secondary or resale markets (dynamic liquidity).
3. Return on Investment - The third objective shall be the realization of competitive investment rates, relative to the risk being assumed. However, yield on the County's investment portfolio is of secondary importance compared to the safety and liquidity objectives described above.

### **C. Delegation of Authority**

The overall management of the investment program is the responsibility of the County Administrator. Responsibility for the daily investment activities will be assigned to the Finance Director. Responsibilities to fulfill this authority include: opening accounts with banks, brokers, and dealers; arranging for the safekeeping of securities; and executing necessary documents.

A system of internal controls over investments is established by management and its implementation shall be reviewed by the County's independent auditors. The controls are designed to prevent losses of public funds arising from fraud, error, misrepresentation by third parties, unanticipated changes in financial markets, and/or imprudent action by staff and County officials. No person may engage in an investment transaction except as provided for under Section D, below (Authorized Investments).

#### **D. Authorized Investments**

All investment activity is required to be in compliance with Chapter 83 of Title 36 of the *Official Code of Georgia*, which establishes guidelines for local government investment procedures.

Sumter County may invest funds subject to its control and jurisdiction in the following:

1. Certificates of Deposit (CD's) issued by banks insured by the Federal Deposit Insurance Corporation (FDIC). Deposits in excess of FDIC coverage must be collateralized by securities with a market value equal to at least 110% of the deposit. Only those securities described in Georgia Code 50-17-59 can be pledged as collateral;
2. Certificates of Deposit (CD's) issued by savings and loans associations issued by the Federal Savings and Loan Insurance Corporation (FSLIC). Deposits in excess of the FSLIC coverage must be collateralized by securities equal to at least 110% of the deposit. Only those securities described in Georgia Code 50-17-59 can be pledged as collateral;
3. Obligations issued by the United States government;
4. Obligations fully insured or guaranteed by the United States government or a United States government agency;
5. Obligation of any corporation of the United States government;
6. Obligation of the state of Georgia or of other states;
7. Obligation of other political subdivision of the state of Georgia;
8. The Local Government Investment Pool of the state of Georgia managed by the State Department of Administrative Services, Fiscal Division;
9. Repurchase agreements (REPO's) issued by commercial banks insured by the FDIC and collateralized by securities described in Georgia Code 50-17-59 with a market value equal to at least 103% of the Repurchase Agreements' maturity value;
10. Repurchase agreements(REPO's) issued by primary dealers supervised by the Federal Reserve Bank of New York and collateralized by securities described in Georgia Code 50-17-59 with a market value of at least 103% of the Repurchase Agreements' maturity value; and

## 11. Prime Banker's Acceptances.

### **E. Prudence**

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Under the “prudent person” standard, investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable revenue to be gained.

The County Administrator and all designees acting in accordance with 1) written procedures, 2) this investment policy, and 3) exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse development.

### **F. Solicitation Process**

Sumter County agrees with the premise that the solicitation process will be an unbiased and impartial process. Investment quotes are obtained individually and not disclosed during the solicitation process. Therefore, the process objective is to invest solely for the purpose of Sumter County's benefit.

### **G. Maturities**

To achieve the objective of adequate liquidity within County's portfolio, the County shall attempt to match investment maturities with anticipated cash flow requirements. Unless matched to a specific cash flow, the maximum maturity of any instrument in the County's portfolio may not exceed two years from the date of acquisition by the County. The maturity of non-negotiable time deposits may not exceed one year.

### **H. Safekeeping and Custody**

All investment securities purchased by Sumter County shall be delivered against payment and shall be held in a third-party safekeeping account by the trust department of a bank insured by the Federal Deposit Insurance Corporation. The County Administrator, or his/her designee, shall be responsible for the selection of a financial institution for this purpose, as well as the execution of a written safekeeping agreement with the trustee.

## **I. Ethics and Conflicts of Interest**

Officers and employees involved in the investment process will refrain from personal business activity that would conflict with proper execution of the investment program, or which would impair their ability to make impartial investment decisions. Employees and investment officials will disclose to the County Administrator any material financial interests in financial institutions that conduct business with the County, and they will further disclose any large personal financial/investment positions that would be related to the performance of the County's portfolio. Employees and investment officials will subordinate their personal investment transactions to those of the County – particularly with regard to the time of purchases and sales.

## **J. Relationships with Banks and Brokers**

Sumter County will select depositories through the County's banking services procurement process – including formal requests for proposals issued as needed. In selecting depositories, objective business criteria will be used. To the extent possible, preference will be given to depositories located within Sumter County. The creditworthiness of the institutions will be a fundamental consideration.

## **K. Report on Deposits and Investments**

Periodic investment reports will be submitted to the County Administrator. Reports should include the following: an average daily balance of investment in each investment category; a current portfolio yield for each investment type and for the portfolio as a whole; an average daily balance of uninvested collected funds; an average daily balance of uncollected funds; and a percent of available funds invested. The report shall also provide a list of investments and accrued interest as of the last day of the quarter.

## **L. Performance Evaluation**

The County Administrator, or his/her designees, will seek to achieve a market average rate of return on the County's portfolio. Given the special safety and liquidity needs of the County, the basis used to determine whether market yields are being achieved shall be the six-month Treasury Bill.

## **Section 11. Grants**

### **A. Objective**

Sumter County will aggressively seek public and private grants, contracts and other outside sources of revenues for funding projects where appropriate.

### **B. Scope**

The purpose of this policy is to provide direction in the application, acceptance and administration of funds awarded through grants to the County from other local governments, the state or federal government, non-profit agencies, philanthropic organizations and the private sector.

### **C. Application and Acceptance of Grants.**

1. The Board of Commissioners must approve the application of and acceptance of any grants.
2. The County will assess the merits of a particular program as if it were funded with local tax dollars. Local tax dollars will not be used to make up for losses of intergovernmental aid without first reviewing the program and its merits as a budgetary increment. Therefore, no grant will be accepted that will incur management and reporting costs greater than the grant amount.

### **D. Grant Administration.**

1. Each department must provide the County Clerk any grant paperwork received including the following:
  - a. Copy of grant application
  - b. Notification of grant award
  - c. Financial reporting and accounting requirements including separate account codes and/or bank accounts
  - d. Schedule of grant payments
2. Each department is responsible for the management of its grant funds and periodic reporting until such time as a Grant Manager position is filled in the Finance Department.

## **Section 12. Fixed Assets**

### **A. Fixed Asset Criteria**

A fixed asset is defined as a financial resource meeting all of the following criteria:

1. It is tangible in nature.
2. It has a useful life of greater than one year.
3. It is not a repair part or supply item.
4. It has a value equal to, or greater than, the capitalization threshold of \$10,000.

Keeping an accurate record of the County's fixed assets is important for a myriad of reasons. Some of the most important reasons that the County needs to keep a good record of fixed assets are: for financial statement information, for insurable values, for control and accountability, for maintenance scheduling and cost analysis, for estimating and accounting for depreciation, for preparation of capital and operating budgets, and for debt management.

### **B. General Policy**

#### **1. Responsibility**

Each Elected Official, Department Director, or Controlling Board is ultimately responsible for the proper recording, acquisition, transfer, and disposal of all assets within their Department. County property may not be acquired, transferred, or disposed of without first providing proper documentation.

#### **2. Recording of Fixed Assets**

The recording of fixed assets is accomplished through the Financial Software when a Purchase Order is issued for an item with the Object Code deeming it a Capital Item. Assets will be capitalized at acquisition cost, including expenses incurred in preparing the asset for use.

Donated assets shall be recorded at fair market value as determined by the Department head. Fair market value may be defined as, but is not limited to, an average of documented prices for equivalent items from three separate vendors.

*Vehicles, equipment, machinery, and furniture* - for these purchases, title is considered to pass at the date the equipment is received. Similarly, for donated assets, title is considered to pass when the asset is available for the agency's use and when the agency assumes responsibility for maintaining the asset.

- Depreciation method – straight-line, no salvage value
- Capitalization threshold - \$10,000

Useful lives:

- Vehicles – 5 years
- Computer equipment – 3 years
- Office furniture and equipment – 10 years

*Constructed assets* are transferred from the construction in progress account to the related building, improvements other than buildings, or equipment accounts when they become operational. Constructed buildings, for example, are assumed to be operational when an authorization to occupy the building is issued, regardless of whether or not final payments have been made on all the construction contracts. Construction in progress is not depreciated.

*Buildings* are roofed structures used for permanent or temporary shelter of persons, animals, plants, or equipment. Buildings consist of two components: original construction and renovations. Original construction is the cost of the building and all the detailed components and services necessary to bring the building on line. Renovations are those subsequent construction projects, other than repairs, that add value to the building, or extend its useful life, but do not add to the usable space of the structure. Renovations and additions that add to the usable space, prepare existing buildings for new uses, or extend the useful life of an existing building should be capitalized.

- Depreciation method – straight-line, no salvage value
- When a building is improved, the improvement will be capitalized as a separate asset from the original building.
- Leasehold improvements (capitalizable improvements to leased buildings) will be depreciated over the life of the improvement or the lease term, whichever is shorter.
- Capitalization threshold - \$10,000

Useful lives:

- Masonry/Concrete Buildings – 40 years
- Modular/Metal Buildings – 20 years
- Renovations – 25 years
- Additions – 40 years

*All land and non-depreciable land improvements* will be capitalized, regardless of cost. Non-depreciable land improvements produce permanent benefits, primarily related to preparing land for its intended use. Non-depreciable land improvements include items like excavation costs and fill and grading costs.

*Infrastructure Assets* are long-lived capital assets that normally are stationary and normally can be preserved a significantly greater number of years than most capital assets. Examples of infrastructure assets include roads, bridges, tunnels, drainage systems, water and sewer systems, dams, and lighting systems. Depreciable land improvements are enhancements made to land, excluding the clearing and grading necessary to make the land suitable for use. Examples: fences and gates, seating/bleachers, parking lots, parking barriers, swimming pools, tennis courts, yard lighting, paths, septic tanks, fountains, retaining walls, athletic fields, golf courses, harvest crops, or similar improvements that rest in or on the land itself.

- Depreciation method – straight-line, no salvage value
- Capitalization threshold - \$10,000

Useful lives:

- Road (dirt) – 10 years
- Road (gravel) – 15 years
- Road (asphalt/concrete) – 50 years
- Bridges – 40 years
- Culverts – 40 years
- Improvements (resurface)– 15 years

*Groups/classes of assets* – where individual asset items are less than the capitalization limit, but when all assets of that group are added together the dollar amount far exceeds the capitalization limit. These groups/classes of assets should be capitalized and depreciated. (ex. Library books in a public library)

### 3. Acquisition of Fixed Assets

There are various methods by which assets can be acquired. The asset acquisition method determines the basis for valuing the asset. Fixed assets may be acquired in the following ways:

- a. New purchases
- b. Donations
- c. Internal/external construction
- d. Lease purchases
- e. Trade-in
- f. Forfeiture or condemnation

#### 4. Lease Purchases

Assets may be lease-purchased through lease financing arrangements. Departments considering a lease purchase must consult with the County Administrator. Lease Purchase agreements must be approved by the Board of Commissioners.

#### 5. Transfer of Fixed Assets

An asset transfer between departments must be recorded in the Financial Asset System; therefore notification must be made to the Finance Department upon completion of a transfer.

#### 6. Disposal of Fixed Assets

When an asset is disposed of, its value is removed from the financial balances reported and from inventory reports; however, the asset record, including disposal information, remains on the master file for three years in the Finance Department, after which time it is purged from the system according to general accepted accounting principles. This preserves an audit trail for disposed items, and facilitates departmental comparisons between actual or historical useful life information with useful life guidelines. Such comparisons permit a more precise definition of an asset's useful life than those provided by the Internal Revenue Service (IRS) or other guidelines initially used.

A disposal action is appropriate only when certain conditions occur resulting in an asset no longer being in the possession of the County. Assets no longer in use, which remain in the possession of the department, are considered surplus property and not a disposal.

Fixed assets may be disposed of in any one of the following ways:

- a. Sale or trade-in
- b. Lost or stolen
- c. Transfer to another Government Agency
- d. Cannibalization (taking parts and employing them for like uses within the department, such as is often the practice in computer or vehicle maintenance).
- e. Casualty loss

Only when the asset is no longer in possession of the department, due to one of the reasons listed above, is disposal action appropriate.

Stolen items must be reported to the Sumter County Sheriff's Office and an official report filed. A copy of this report must accompany a disposal record to the Finance Department.

Casualty losses must be documented within 24 hours of loss and reported to the County Clerk immediately for follow-up with the County's insurance carrier.

All assets no longer in the possession of the department, due to one of these qualifying conditions and after submission of all appropriate documentation to the County Clerk's Office, will be removed from the master departmental asset file and considered disposed.

#### 7. Sale of Fixed Assets

Competitive bidding on surplus, obsolete or unusable goods is required. This may be achieved through sealed bids, auction, or competitive negotiations.

Departments are responsible for submitting items to the County Clerk no later than thirty (30) days prior to an established auction date.

#### Auction Procedure:

- The County will hold surplus sales as needed.
- The County shall hire a qualified auctioneer or auctioneer company such as D.O.A.S. to handle the sale.
- All sales are final.
- Cashiers checks, money orders, or cash is accepted on the day of the sale. No personal checks will be accepted.
- No Elected Official, Department Director, or Controlling Board submitting items or their immediate relative may bid on surplus goods that they submitted.
- The County Commission will ratify at a public meeting the sale results.

## 8. Physical Inventory

A physical inventory of all fixed assets will be performed by the County on a periodic basis. The inventory will be conducted with the least amount of interruption possible to the department's daily operation. A full report of the results of the inventory will be sent, upon completion, to all departments for verification and acceptance.

## **DEFINITIONS:**

1. **Advertisement/Advertising:** The process of placing a request or solicitation for work in a newspaper, trade publication, plans room or web site.
2. **Bids:** Quotes for the provision of a good or service or for the conducting of a project. Competitive estimates based upon a set of standards or specifications that each bidder must utilize.
3. **Contract:** A binding agreement between two (2) or more persons or parties for the provision of a good or service. The document is drawn in conformance with applicable local, state and federal requirements.
4. **Immediate Family:** This term shall mean wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, aunt, uncle, nephew, or niece. Also included are the step, half and in-law relationships as appropriate based on the above listing.
5. **Local Organ:** The local newspaper designated by the County Commission as the official newspaper for Sumter County.
6. **Public Meetings:** A meeting called by the unit of government for the purpose of conducting the business of the County. A meeting that meets the requirements of the Georgia Open Meetings Act.
7. **Requests for Proposals:** (1) A Request for Proposal is a document prepared for the purpose of obtaining costs related to the provision of a service or conducting a project. (2) It is a plan of work provided by a firm responding to such a request. A plan of work, which tells how the firm plans to achieve the objectives, developed for the project.
8. **Specifications:** A document prepared by an engineer, architect or other design professional. It includes technical information related to a specific project, the acceptable level of materials and workmanship, the legal requirements related to the project, directions for preparing a submittal or bid for a project and other information pertinent to the undertaking and completion of a project.
9. **Metropolitan area:** Atlanta and suburban area, Columbus, Augusta, Valdosta, Savannah and Coastal cities

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\*\*\* Current through the 2007 Regular Session \*\*\*

TITLE 36. LOCAL GOVERNMENT  
PROVISIONS APPLICABLE TO COUNTIES, MUNICIPAL CORPORATIONS, AND  
OTHER GOVERNMENTAL ENTITIES  
CHAPTER 91. PUBLIC WORKS BIDDING

ARTICLE 1. GENERAL PROVISIONS

§ 36-91-1. Short title

This chapter shall be known and may be cited as the "Georgia Local Government Public Works Construction Law."

§ 36-91-2. Definitions

As used in this chapter, the term:

(1) "Alternate bids" means the amount stated in the bid or proposal to be added to or deducted from the amount of the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.

(2) "Base bid" or "base proposal" means the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.

(3) "Bid bond" means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.

(4) "Change order" means an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion.

(5) "Competitive sealed bidding" means a method of soliciting public works construction contracts whereby the award is based upon the lowest responsive, responsible bid in conformance with the provisions of subsection (b) of Code Section 36-91-21.

(6) "Competitive sealed proposals" means a method of soliciting public works contracts

whereby the award is based upon criteria identified in a request for proposals in conformance with the provisions of subsection (c) of Code Section 36-91-21.

(7) "Emergency" means any situation resulting in imminent danger to the public health or safety or the loss of an essential governmental service.

(8) "Governing authority" means the official or group of officials responsible for governance of a governmental entity.

(9) "Governmental entity" means a county, municipal corporation, consolidated government, authority, board of education, or other public board, body, or commission but shall not include any authority, board, department, or commission of the state, or a public transportation agency as defined by Chapter 9 of Title 32.

(10) "Payment bond" means a bond with good and sufficient surety or sureties payable to the governmental entity for which the work is to be done and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.

(11) "Performance bond" means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.

(12) "Public works construction" means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by Chapter 4 of Title 32. Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property.

(13) "Responsible bidder" or "responsible offeror" means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.

(14) "Responsive bidder" or "responsive offeror" means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

(15) "Scope of project" means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.

(16) "Scope of work" means the work that is required by the contract documents.

(17) "Sole source" means those procurements made pursuant to a written determination

by a governing authority that there is only one source for the required supply, service, or construction item.

## ARTICLE 2. CONTRACTING AND BIDDING REQUIREMENTS

§ 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification

(a) All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.

(b) (1) Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.

(2) Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.

(3) Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.

(4) Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:

(A) A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

(B) A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.

(5) Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.

(6) The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.

(7) All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory pre-bid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.

(c) Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:

(1) Place the bidder or offeror at risk for construction; and

(2) Require labor or building materials in the execution of the contract

shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.

(d) No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to re-advertise as required by subsection (b) of this Code section.

(e) Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.

(f) Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:

(1) Criteria for prequalification must be reasonably related to the project or the quality of work;

(2) Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;

(3) Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and

(4) Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause.

#### § 36-91-21. Competitive award requirements

(a) It shall be unlawful to let out any public works construction contracts subject to the requirements of this chapter without complying with the competitive award requirements contained in this Code section. Any contractor who performs any work of the kind in any other manner and who knows that the public works construction contract was let out without complying with the notice and competitive award requirements of this chapter shall not be entitled to receive any payment for such work.

(b) Any competitive sealed bidding process shall comply with the following requirements:

(1) The governmental entity shall publicly advertise an invitation for bids;

(2) Bidders shall submit sealed bids based on the criteria set forth in such invitation;

(3) The governmental entity shall open the bids publicly and evaluate such bids without discussions with the bidders; and

(4) The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids; provided, however, that if the bid from the lowest responsible and responsive bidder exceeds the funds budgeted for the public works construction contract, the governmental entity may negotiate with such apparent low bidder to obtain a contract price within the budgeted amount. Such negotiations may include changes in the scope of work and other bid requirements.

(c) (1) In making any competitive sealed proposal, a governmental entity shall:

(A) Publicly advertise a request for proposals, which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project, as well as the relative importance of the evaluation factors;

(B) Open all proposals received at the time and place designated in the request for proposals so as to avoid disclosure of contents to competing offerors during the process of negotiations; and

(C) Make an award to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the governmental entity, taking into consideration the evaluation factors set forth in the request for proposals. The evaluation factors shall be the basis on which the award decision is made. The contract file shall indicate the basis on which the award is made.

(2) As set forth in the request for proposals, offerors submitting proposals may be afforded an opportunity for discussion, negotiation, and revision of proposals. Discussions, negotiations, and revisions may be permitted after submission of proposals and prior to award for the purpose of obtaining best and final offers. In accordance with the request for proposals, all responsible offerors found by the governmental entity to have submitted proposals reasonably susceptible of being selected for award shall be given an opportunity to participate in such discussions, negotiations, and revisions. During the process of discussion, negotiation, and revision, the governmental entity shall not disclose the contents of proposals to competing offerors.

(d) Whenever a public works construction contract for any governmental entity subject to the requirements of this chapter is to be let out by competitive sealed bid or proposal, no person, by himself or herself or otherwise, shall prevent or attempt to prevent competition in such bidding or proposals by any means whatever. No person who desires to procure such work for himself or herself or for another shall prevent or endeavor to prevent anyone from making a bid or proposal therefor by any means whatever, nor shall such person so desiring the work cause or induce another to withdraw a bid or proposal for the work.

(e) Before commencing the work, any person who procures such public work by bidding or proposal shall make an oath in writing that he or she has not directly or indirectly violated subsection (d) of this Code section. The oath shall be filed by the officer whose duty it is to make the payment. If the contractor is a partnership, all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for or procuring the contract shall also make the oath. If the contractor is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the contract shall make the oath. If such oath is false, the contract shall be void, and all sums paid by the governmental entity on the contract may be recovered by appropriate action.

(f) If any member of a governmental entity lets out any public works construction

contract subject to the requirements of this article and receives, takes, or contracts to receive or take, either directly or indirectly, any part of the pay or profit arising out of any such contract, he or she shall be guilty of a misdemeanor.

(g) No public works construction contract with a governing authority shall be valid for any purpose unless the contractor shall comply with all bonding requirements of this chapter. No such contract shall be valid if any governmental entity lets out any public works construction contract subject to the requirements of this chapter without complying with the requirements of this chapter.

§ 36-91-22. Exceptions; use of inmate labor; emergency situations

(a) The requirements of this chapter shall not apply to public works construction projects, when the same can be performed at a cost of less than \$100,000.00. Public works construction projects shall not be subdivided in an effort to evade the provisions of this chapter.

(b) Any governmental entity having a correctional institution shall have the power and authority to purchase material for and use inmate labor in performing public works construction projects; and in such cases, this chapter shall not apply. Any governmental entity may contract with a governmental entity having a correctional institution for the use of inmate labor from such institution and use the inmates in the performance of any public works construction project; and in such cases, this chapter shall not apply.

(c) In the event that the labor used or to be used in a public works construction project is furnished at no expense by the state or federal government or any agency thereof, the governing authority shall have the power and authority to purchase material for such public works construction project and use the labor furnished free to the governmental entity; and in such case, this chapter shall not apply.

(d) Where a public works construction contract involves the expenditure of federal assistance or funds, the receipt of which is conditioned upon compliance with federal laws or regulations regarding the procedures for awarding public works construction contracts, a governmental entity shall comply with such federal requirements and shall not be required to comply with the provisions of this chapter that differ from the federal requirements. The governmental entity shall provide notice that federal procedures exist for the award of such contracts in the advertisement required by subsection (b) of Code Section 36-91-20. The availability and location of such federal requirements shall be provided to any person requesting such information.

(e) The requirements of this chapter shall not apply to public works construction projects necessitated by an emergency; provided, however, that the nature of the emergency shall be described in the minutes of the governing authority. Any contract let by a county pursuant to this subsection shall be ratified, as soon as practicable, on the minutes of the

governing authority, and the nature of the emergency shall be described therein.

(f) Except as otherwise provided in Chapter 4 of Title 32, the requirements of this chapter shall not apply to public works construction projects subject to the requirements of Chapter 4 of Title 32.

(g) The requirements of this chapter shall not apply to public works construction projects or any portion of a public works construction project self-performed by a governmental entity. If the governmental entity contracts with a private person or entity for a portion of such project, the provisions of this chapter shall apply to any such contract estimated to exceed \$100,000.00.

(h) The requirements of this chapter shall not apply to sole source public works construction contracts.

(i) The requirements of this chapter shall not apply to hospital authorities; provided, however, that a public works construction contract entered into by a hospital authority shall be subject to the requirements of this chapter if, in connection with such contract, the hospital authority either:

(1) Incurs indebtedness and secures such indebtedness by pledging amounts to be received by such authority from one or more counties or municipalities through an intergovernmental contract entered into in accordance with Code Section 31-7-85; or

(2) Receives funds from the state or one or more counties or municipalities for the purpose of financing a public works construction project, which moneys are not for reimbursement of health services provided.

## ARTICLE 3. BONDS

### PART 1. GENERAL PROVISIONS

#### § 36-91-40. Approval and filing of bonds with treasurer

(a)(1) Any bid bond, performance bond, payment bond, or security deposit required for a public works construction contract shall be approved and filed with the treasurer or the person performing the duties usually performed by a treasurer of the obligee named therein. At the option of the governmental entity, if the surety named in the bond is other than a surety company authorized by law to do business in this state pursuant to a current certificate of authority to transact surety business by the Commissioner of Insurance, such bond shall not be approved and filed unless such surety is on the United States Department of Treasury's list of approved bond sureties.

(2) Any bid bond, performance bond, or payment bond required by this Code section

shall be approved as to form and as to the solvency of the surety by an officer of the governmental entity negotiating the contract on behalf of the governmental entity. In the case of a bid bond, such approval shall be obtained prior to acceptance of the bid or proposal. In the case of payment bonds and performance bonds, such approval shall be obtained prior to the execution of the contract.

(b) Whenever, in the judgment of the obligee:

(1) Any surety on a bid, performance, or payment bond has become insolvent;

(2) Any corporate surety is no longer certified or approved by the Commissioner of Insurance to do business in the state; or

(3) For any cause there are no longer proper or sufficient sureties on any or all of the bonds,

the obligee may require the contractor to strengthen any or all of the bonds or to furnish a new or additional bond or bonds within ten days. Thereupon, if so ordered by the obligee, all work on the contract shall cease unless such new or additional bond or bonds are furnished. If such bond or bonds are not furnished within such time, the obligee may terminate the contract and complete the same as the agent of and at the expense of the contractor and his or her sureties.

## PART 2. BID BONDS

§§ 36-91-41 through 36-91-45.

[Repealed]

§ 36-91-50. Projects requiring bid bonds; revocation of bids; surety

(a) Bid bonds shall be required for all public works construction contracts subject to the requirements of this article with estimated bids or proposals over \$100,000.00; provided, however, that a governmental entity may require a bid bond for projects with estimated bids or proposals of \$100,000.00 or less.

(b) In the case of competitive sealed bids, except as provided in Code Sections 36-91-52 and 36-91-53, a bid may not be revoked or withdrawn until 60 days after the time set by the governmental entity for opening of bids. Upon expiration of this time period, the bid will cease to be valid, unless the bidder provides written notice to the governmental entity prior to the scheduled expiration date that the bid will be extended for a time period specified by the governmental entity.

(c) In the case of competitive sealed proposals, the governmental entity shall advise offerors in the request for proposals of the number of days that offerors will be required

to honor their proposals; provided, however, that if an offeror is not selected within 60 days of opening the proposals, any offeror that is determined by the governmental entity to be unlikely of being selected for contract award shall be released from his or her proposal.

(d) If a governmental entity requires a bid bond for any public works construction contract, no bid or proposal for a contract with the governmental entity shall be valid for any purpose unless the contractor shall give a bid bond with good and sufficient surety or sureties approved by the governing authority. The bid bond shall be in the amount of not less than 5 percent of the total amount payable by the terms of the contract. No bid or proposal shall be considered if a proper bid bond or other security authorized in Code Section 36-91-51 has not been submitted. The provisions of this subsection shall not apply to any bid or proposal for a contract that is required by law to be accompanied by a proposal guaranty and shall not apply to any bid or proposal for a contract with any public agency or body which receives funding from the United States Department of Transportation and which is primarily engaged in the business of public transportation.

§ 36-91-51. Cash in lieu of bid bonds; letters of credit

(a) In lieu of the bid bond provided for in Code Section 36-91-50, the governmental entity may accept a cashier's check, certified check, or cash in the amount of not less than 5 percent of the total amount payable by the terms of the contract payable to and for the protection of the governmental entity for which the contract is to be awarded.

(b) When the amount of any bid bond required under this article does not exceed \$750,000.00, the governmental entity may, in its sole discretion, accept an irrevocable letter of credit issued by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of the bond otherwise required under Code Section 36-91-50.

§ 36-91-52. Bid and bidder defined; withdrawal of bids for appreciable errors; resubmission

(a) As used in this Code section, the term "bid" includes proposal and the term "bidder" includes offeror.

(b) Any governmental entity receiving bids subject to this article shall permit a bidder to withdraw a bid from consideration after the bid opening without forfeiture of the bid security if the bidder has made an appreciable error in the calculation of his or her bid and if:

(1) Such error in the calculation of his or her bid can be documented by clear and

convincing written evidence;

(2) Such error can be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or materials used in the preparation of the bid sought to be withdrawn;

(3) The bidder serves written notice upon the governmental entity which invited proposals for the work prior to the award of the contract and not later than 48 hours after the opening of bids, excluding Saturdays, Sundays, and legal holidays;

(4) The bid was submitted in good faith and the mistake was due to a calculation or clerical error, an inadvertent omission, or a typographical error as opposed to an error in judgment; and

(5) The withdrawal of the bid will not result in undue prejudice to the governmental entity or other bidders by placing them in a materially worse position than they would have occupied if the bid had never been submitted.

(c) In the event that an apparent successful bidder has withdrawn his or her bid as provided in subsection (b) of this Code section, action on the remaining bids should be considered as though the withdrawn bid had not been received. In the event the project is relet for bids, under no circumstances shall a bidder who has filed a request to withdraw a bid be permitted to resubmit a bid for the work.

(d) No bidder who is permitted to withdraw a bid pursuant to subsection (b) of this Code section shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

§ 36-91-53. Affiliated corporation defined; forfeit of security by affiliated corporation

(a) As used in this Code section, the term:

(1) "Affiliated corporation" means, with respect to any corporation, any other corporation related thereto:

(A) As a parent corporation;

(B) As a subsidiary corporation;

(C) As a sister corporation;

(D) By common ownership or control; or

(E) By control of one corporation by the other.

(2) The term "bid" includes proposals.

(b) In any case where two or more affiliated corporations bid for a contract under this Code section and any one or more of such affiliated corporations subsequently rescind or revoke their bid or bids in favor of another such affiliated corporation whose bid is for a higher amount and the contract is awarded at such higher amount to such other affiliated corporation, then the bid bond, proposal guaranty, or other security otherwise required under this article of each affiliated corporation rescinding or revoking its bid shall be forfeited.

#### § 36-91-54. Action on breach of bond

The obligee in any bid bond required to be given in accordance with this article shall be entitled to maintain an action thereon at any time upon any breach of such bond; provided, however, that no action may be instituted on the bonds or security deposits after one year from the completion of the contract and the acceptance of the public work by the governmental entity.

### PART 3. PERFORMANCE BONDS

#### § 36-91-70. Requirement of performance bonds

Performance bonds shall be required for all public works construction contracts subject to the requirements of this chapter with an estimated contract amount greater than \$100,000.00; provided, however, that a governmental entity may require a performance bond for public works construction contracts that are estimated at \$100,000.00 or less. No public works construction contract requiring a performance bond shall be valid for any purpose unless the contractor shall give such performance bond. The performance bond shall be in the amount of at least the total amount payable by the terms of the contract and shall be increased as the contract amount is increased.

#### § 36-91-71. Acceptable substitutes for bond

When the amount of the performance bond required under this article does not exceed \$750,000.00, the governmental entity may, in its sole discretion, accept an irrevocable letter of credit by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of the bond otherwise required under this article.

§ 36-91-72. Action on performance bond

The obligee in any performance bond required to be given in accordance with this article shall be entitled to maintain an action thereon at any time upon any breach of such bond; provided, however, no action can be instituted on the bonds or security deposits after one year from the completion of the contract and the acceptance of the public work by the governmental entity.

§§ 36-91-73 through 36-91-75.

[Repealed]

PART 4. PAYMENT BONDS

§ 36-91-90. Requirement for payment bonds

Payment bonds shall be required for all public works construction contracts subject to the requirements of this chapter with an estimated contract amount greater than \$100,000.00; provided, however, that a governmental entity may require a payment bond for public works construction contracts that are estimated at \$100,000.00 or less. No public works construction contract requiring a payment bond shall be valid for any purpose, unless the contractor shall give such payment bond; provided, however, that, in lieu of such payment bond, the governmental entity, in its discretion, may accept a cashier's check, certified check, or cash for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of work provided in the contract. The payment bond or other security accepted in lieu of a payment bond shall be in the amount of at least the total amount payable by the terms of the initial contract and shall be increased if requested by the governmental entity as the contract amount is increased.

§ 36-91-91. Liability of contracting party to subcontractors for noncompliance

If a payment bond or security deposit is not taken in the manner and form required in this article, the corporation or body for which work is done under the contract shall be liable to all subcontractors and to all persons furnishing labor, skill, tools, machinery, or materials to the contractor or subcontractor thereunder for any loss resulting to them from such failure. No agreement, modification, or change in the contract, change in the work

covered by the contract, or extension of time for the completion of the contract shall release the sureties of such payment bond.

§ 36-91-92. Notice of commencement

(a) The contractor furnishing the payment bond or security deposit shall post on the public works construction site and file with the clerk of the superior court in the county in which the site is located a notice of commencement no later than 15 days after the contractor physically commences work on the project and supply a copy of the notice of commencement to any subcontractor, materialman, or person who makes a written request of the contractor. Failure to supply a copy of the notice of commencement within ten calendar days of receipt of the written request from the subcontractor, materialman, or person shall render the provisions of paragraph (1) of subsection (a) of Code Section 36-91-93 inapplicable to the subcontractor, materialman, or person making the request. The notice of commencement shall include:

- (1) The name, address, and telephone number of the contractor;
- (2) The name and location of the public work being constructed or a general description of the improvement;
- (3) The name and address of the governmental entity that is contracting for the public works construction;
- (4) The name and address of the surety for the performance and payment bonds, if any; and
- (5) The name and address of the holder of the security deposit provided, if any.

(b) The failure to file a notice of commencement shall render the notice to contractor requirements of paragraph (1) of subsection (a) of Code Section 36-91-93 inapplicable.

(c) The clerk of the superior court shall file the notice of commencement within the records of that office and maintain an index separate from other real estate records or an index with the preliminary notices specified in subsection (a) of Code Section 44-14-361.3. Each such notice of commencement shall be indexed under the name of the governmental entity and the name of the contractor as contained in the notice of commencement.

§ 36-91-93. Rights of persons protected by payment bond or security deposit; governmental entity not a party

(a) Every person entitled to the protection of the payment bond or security deposit required to be given who has not been paid in full for labor or material furnished in the prosecution of the work referred to in such bond or security deposit before the expiration of a period of 90 days after the day on which the last of the labor was done or performed by such person or the material or equipment or machinery was furnished or supplied by such person for which such claim is made, or when he or she has completed his or her subcontract for which claim is made, shall have the right to bring an action on such payment bond or security deposit for the amount, or the balance thereof, unpaid at the time of the commencement of such action and to prosecute such action to final execution and judgment for the sum or sums due such person; provided, however, that:

(1) Any person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing such payment bond or security deposit on a public works construction project where the contractor has not complied with the notice of commencement requirements shall have the right of action upon the payment bond or security deposit upon giving written notice to the contractor within 90 days from the day on which such person did or performed the last of the labor or furnished the last of the material or machinery or equipment for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was performed or done. The notice to the contractor may be served by registered or certified mail, postage prepaid, or statutory overnight delivery, duly addressed to the contractor, at any place at which the contractor maintains an office or conducts his or her business or at his or her residence, by depositing such notice in any post office or branch post office or any letter box under the control of the United States Postal Service; alternatively, notice may be served in any manner in which the sheriffs of this state are authorized by law to serve summons or process; and

(2) Any person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing such payment bond or security deposit on a public works construction project where the contractor has complied with the notice of commencement requirements in accordance with subsection (a) of Code Section 36-91-92 shall have the right of action on the payment bond or security deposit, provided that such person shall, within 30 days from the filing of the notice of commencement or 30 days following the first delivery of labor, material, machinery, or equipment, whichever is later, give to the contractor a written notice setting forth:

(A) The name, address, and telephone number of the person providing labor, material, machinery, or equipment;

(B) The name and address of each person at whose instance the labor, material, machinery, or equipment is being furnished;

(C) The name and the location of the public works construction site; and

(D) A description of the labor, material, machinery, or equipment being provided and, if known, the contract price or anticipated value of the labor, material, machinery, or equipment to be provided or the amount claimed to be due, if any.

(b) Nothing contained in this Code section shall limit the right of action of a person entitled to the protection of the payment bond or security deposit required to be given pursuant to this article to the 90 day period following the day on which such person did or performed the last of the labor or furnished the last of the material or machinery or equipment for which such claim is made.

(c) Every action instituted under this Code section shall be brought in the name of the claimant without making the governmental entity for which the work was done or was to be done a party to such action.

#### § 36-91-94. Providing copy of bond or security deposit agreement

The official who has the custody of the bond or security deposit required by this article is authorized and directed to furnish to any person making application therefore a copy of the bond or security deposit agreement and the contract for which it was given, certified by the official who has custody of the bond or security deposit. With his or her application, such person shall also submit an affidavit that he or she has supplied labor or materials for such work and that payment therefor has not been made or that he or she is being sued on any such bond or security deposit. Such copy shall be primary evidence of the bond or security deposit and contract and shall be admitted in evidence without further proof. Applicants shall pay for such certified copies and such certified statements such fees as the official fixes to cover the cost of preparation thereof, provided that in no case shall the fee fixed exceed the fees which the clerks of the superior courts are permitted to charge for similar copies.

#### § 36-91-95. Time limitation

No action can be instituted on the payment bonds or security deposits after one year from the completion of the contract and the acceptance of the public works construction by the proper public authorities. Every action instituted under this article shall be brought in the name of the claimant, without the governmental entity for which the work was done or was to be done being made a party thereto.