

# Harrison County

## Purchasing Policy And Procedure Manual

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**HARRISON COUNTY  
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## Chapter 1 Introduction

### *Welcome to County Procurement*

Procurement is an essential County government business function. Procurement activities, which are expenditures made to the public sector for the purchase of goods and services, result in the second largest expenditure of taxpayers dollars. The largest dollars are for personal services that are paid out in the form of employee wages, salaries and benefits.

The integrity and efficiency of the county procurement process is a crucial component of its credibility. More public officials have been criticized for real or perceived conflicts of interest in the spending of public funds than on any other financial activity. Even with the knowledge of such potential criticism, public officials often misunderstand procurement's significant budgetary and public relations importance.

Even the perception of public officials misusing the procurement process for personal or political gain threatens the public's confidence in its government. Therefore, the Commissioners Court, all Public Officials and the Purchasing Agent must ensure a high standard of professional ethics in all personnel who participate in, or who can influence those involved in, making procurement decisions.

The relationship between the Purchasing Agent and the Commissioners Court is a unique one. On the one hand, the Purchasing Agent is a customer service function for Commissioners Court and is responsible for ensuring that all County Departments have the goods and services they need to perform the essential functions of their missions. On the other hand, the Purchasing Agent is an expenditure control function, responsible for supervising the Commissioners Courts' contracting authority and ensuring compliance of the County Purchasing Act. This unique relationship lends credence to the notion that the Purchasing Agent be an independent Department of the County.

This policy is intended to provide Elected Officials and Department Heads with a basic understanding of the Policies and Procedures adopted by the Commissioners Court, the County Purchasing Act and the role of the County's Purchasing Agent.

The Purchasing Department is committed to promote effective, professional and consistent procurement in Harrison County, as well as supporting the public notion that tax dollars are wisely spent.

This purchasing manual should not be viewed as static. Purchasing procedures in Harrison County will change as needed, particularly in regards to paper processes and changing legislation.

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Harrison County Purchasing Agent

## Why Centralized Procurement?

Although not readily evident in the County Purchasing Act, there is the suggestion of a centralized purchasing operation for County governments. Most private sector operations recognize and support the centralization of the procurement function. Most procurement techniques are fundamentally the same, however, the significant difference is that public expenditures are made with taxpayer dollars, and therefore, subject to tighter regulations, more intensive scrutiny and a greater degree of accountability than the private sector.

The major advantage of centralized procurement is that it provides the greatest control over taxpayer dollars. It also provides cost savings by consolidating purchases for volume discounts. With the utilization of a professional purchasing staff, the County should benefit from a streamlined administrative function, including the establishment of term (annual requirements) contracts, the use of standardized specifications, and standard contract terms and conditions.

Centralized control improves relations with the business community by providing a single source of information for businesses. A single source of contact for the public reduces their frustration and confusion regarding public procurement procedures. Also, central procurement control helps to ensure the fair and equitable treatment of all vendors.

## The County Purchasing Agent

The Texas Local Government Code § 262.001 allows a County to appoint a Purchasing Agent under different scenarios depending on its size and preference.

**Agent Appointed by Purchasing Board LGC § 262.011-** In a County with a population of 150,000 or less, the Board is composed of the District and County Judge.

The Purchasing Agent is responsible for procuring all goods and services needed by the County to perform its essential functions and ensuring that those goods and services are procured in compliance with the County Purchasing Act. The Purchasing Agent is responsible for accounting for all property and maintaining an accurate inventory of that property. The Purchasing Agent is also responsible for the disposition of seized and abandoned property and the auction of surplus and salvage property. When appropriate, the Purchasing Agent is responsible for warehouse management, recycling and cooperative purchasing agreements.

## County Procurement Objectives

Procurement in the County is the process through which Departments acquire the goods and services needed to perform their specific missions. However, County procurement can only be conducted in ways that are specifically allowed by law.

The fundamental objective of the procurement function is to provide operating departments with the goods and services they need in the right quality and quantity, on a timely basis, as efficiently as possible, and at the lowest overall cost.

In addition, the public procurement objective, by law, is to provide responsible bidders a fair and equal opportunity to compete for County business. This is accomplished by complying with statutory requirements and the adopted County Purchasing Policies and Procedures.

Although the Purchasing Agent does not usually designate what to buy, it should attempt to see that the best value is received for the public dollar.

Most importantly, the integrity of the procurement process must be enforced to maintain the public's trust and reduce government's exposure to criticism and suit. This goal is achieved by complying with all applicable legal provisions.

## Stages of Procurement

The terms "purchasing" and "procurement" are often used interchangeably. However, "purchasing" is only one stage of the procurement cycle. The stages of procurement are:

- ✓ *Planning and budgeting*- Planning is necessary for various efficiency reasons that impact Commissioners Court budgetary processes and operational programs. Planning is necessary in order to consolidate purchases to achieve economies of scale. Good market data helps control estimated budget accuracy. Good planning ensures that goods and services are delivered timely to meet operational needs.
- ✓ *Source Selection (purchasing)*- The process through which solicitations are issued, offers are made, contracts awarded and goods or services received; and
- ✓ *Contract Administration*- The process of ensuring the terms of the purchase agreement are enforced, goods and services delivered satisfactorily, and the bills are paid.

Since procurement activities result in legal contracts, every procurement action is a legal action. County procurement activities are governed by common and case law, by the Uniform Commercial Code, by the County Purchasing Act, other state and federal laws, and the rules and procedures of the Purchasing Agent and the Commissioners Court. Thus those persons making procurement decisions are subjected to legal constraints and exposure well beyond what other officials may routinely experience.

## County Procurement Laws

### County Purchasing Act

The County Purchasing Act provides a general legal and procedural framework that emphasizes price (rather than total cost and value), openness, control, and accountability rather than efficiency. It is the duty of the County's Purchasing Agent to review and recommend periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.

In most Texas Counties there are ONLY TWO entities that have the authority to sign procurement documents: the Commissioners Court as a voting body only, and the County Purchasing Agent. The Commissioners Court must approve all contracts exceeding the statutory limit of \$ 50,000 and the Purchasing Agent must approve all contracts under the statutory limit. Elected Officials and Department Heads do not have this authority.

### The Purchasing Act specifically states:

LGC § 262.011(d)" The County Purchasing Agent shall purchase all supplies, materials and equipment required or used, and contract for all repairs to property used, by the County or a subdivision, department, or employee of the County, except purchases required by law to be made on competitive bid. A person other than the County Purchasing Agent may not make the purchase of the supplies, materials, or equipment or make the contract for repair."

LGC § 262.011(e) "The County Purchasing Agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper County Officer or Department in accordance with the purchase contract."

LGC § 262.011(f)" A purchase made by the Purchasing Agent shall be paid for by a warrant drawn by the County Auditor on funds in the County Treasury in the manner provided by law. The County Auditor may not draw and the County Treasurer may not honor a warrant for a purchase unless the purchase is made by the Purchasing Agent or on competitive bid as provided by law."

LGC § 262.011(i) "On July 1 of each year, the County Purchasing Agent shall file with the County Auditor and each of the members of the board that appoints the County Purchasing Agent an inventory of all property on hand and belonging to the County and each department and employee..."

LGC § 262.011(j)" To prevent unnecessary purchases, the County Purchasing Agent, with the approval of the Commissioners Court, shall transfer county supplies, materials and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee of the county requiring the supplies or materials or the use of the equipment. The Purchasing Agent shall furnish to the County Auditor a list of transferred supplies, materials and equipment."

LGC § 262.011(p)" During each two-year term of Office, a County Purchasing Agent shall complete not less than 25 hours in courses relating to the duties of the County Purchasing Agent."

## Violations of the Act

Additional PURCHASING LAWS that govern County Purchasing:

Public Property Finance Act, (TEX.LOC.GOV'T CODE ,ch 271,subch.B)  
Services and Products of Severely Disabled, (TEX.HUM.RES.CODE ANN.,sec 122.014)  
Interlocal Cooperation Agreement, (TEX.GOV'T CODE ANN., ch. 791)  
Prompt Payment Act, (TEX.GOV'T CODE ANN.,ch.2251)  
Bidders from other States and 5% Retainage, (TEX.GOV'T CODE ANN., ch.2252)  
Public Works Performance and Payment Bonds, (TEX.GOV'T CODE ANN., ch.2253)  
Wage Rate for Construction Projects, (TEX.REV.CIV.ANN., Art. 5159a)  
Sales Tax Exemption for Incorporated purchases (TEX.TAX CODE ANN. § 151)  
Worker's Compensation Compliance (Workers Compensation Rule 110.110)

**Any person who knowingly violates or authorizes the violation of the Purchasing Act commits a criminal offense, which is a misdemeanor. This offense is punishable by a fine between \$10 and \$100, by not less than 30 days or more than one year in the county jail, or by both. Each act in violation of the law is a separate offense. {§ 262.011(m)}**

The following purchasing strategies that are made with the intention of avoiding formal competitive bidding are in violation of the law: (TEX.LOC.GOV'T., § 262.023)

? COMPONENT PURCHASES: purchasing a series of component parts of goods that normally would be purchased as a whole.

? SEPARATE PURCHASES: purchasing goods and services in a series of separate purchases, that in normal purchasing practices, would have been purchased in one purchase.

? SEQUENTIAL PURCHASES: purchases made over a period of time that in normal purchasing practices would be made as one purchase.

**CAUTION: Intentionally separating purchases/invoices to avoid the statutory limit set for competitive bidding is a violation of the Purchasing Act.**

A final conviction of a County Department or employee for this violation results in immediate removal from Department or employment of that person. For four (4) years after the final conviction, the removed Department or employee is ineligible:

1. To be a candidate for or to be appointed or elected to a public Department in this state;
2. To be employed by the County with which the person served when the offense occurred; and
3. To receive any compensation through a contract with that County.

**Any commitment to acquire goods or services without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order will be held personally responsible for the payment.**

Chapter 2 Definitions

Definitions of Purchasing Terms

AMENDMENT - A document used to change the terms and/or conditions of a Solicitation.

ANNUAL TERM CONTRACT - A recurring contract for goods or services, usually in effect on a 12 month basis.

BID ADVERTISEMENT - A public notice put in a newspaper of general circulation containing information about an Invitation for bid or a Request for Proposal.

BIDDERS LIST - An automated list of vendors who have signified in writing an interest in submitting bids for particular categories of goods and services.

COMPETITIVE BIDDING - Letting available vendors compete with each other to provide goods and/or services.

COMPETITIVE PROPOSAL PROCESS - Letting available vendors compete with each other to provide goods and services in compliance with TEX. LOC. GOV'T CODE., § 262.030.

COMPONENT PURCHASES - Purchasing a series of component parts of goods that normally would have been purchased as a whole.

CONTRACT - A formal, written agreement executed by the county and a vendor containing the terms and conditions under which goods or services are to be furnished to the county. A contract, when properly signed by the authorized county representative, is a commitment of the county's funds.

CONTRACTOR - A vendor that has been awarded a contract by Harrison County.

CUSTOMERS - The County's departments.

CYCLE TIME - The time between when a purchase requisition is assigned to a buyer for action and when an actual purchase order is placed with a vendor. Cycle time does not include the time required for delivery, or the time it takes for the Purchasing Department to make corrections to line item accounts, commodity codes, etc.

DEPARTMENT - All county and precinct departments and subdivisions of them, as well as district departments and subdivisions when the purchase will be funded even partially with county funds.

EMERGENCY PURCHASE - A purchase that is needed because of an emergency condition as described in TEX. LOC. GOV'T CODE , § 262.024 (a)(1).

EMPLOYEE - Any county or precinct elected official, appointed official, or employee and any district elected official, appointed official or employee when the purchase will be funded even partially with county funds.

FORMAL COMPETITIVE BIDDING -The bidding process that is in compliance with TEX. LOC. GOV'T CODE, § 262.023 that requires approval by the Commissioners Court.

GOODS - Includes any personal property to be purchased by the County, including equipment, supplies, material, and component or repair parts.



Policy-Harrison County Purchasing Policy and Procedure Manual

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB)** - A business in which at least 51% ownership is owned by one or more persons who have been historically underutilized (socially disadvantaged) because of their identification as being African Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans or Women.

**INVITATION FOR BID (IFB)** - Specifications and formal bidding documents requesting pricing for a specified good or service which has been advertised for bid in a newspaper.

**ITEMS LESS THAN \$50,000** - Purchases of goods and services that are accounted for in the same line item in the County Chart of Accounts, and purchases of goods and services from a single vendor in a single purchase as defined in the Purchasing Act.

**LEASE** - A contract for the use of personal property for a period of time in return for a specified compensation.

**LOWEST RESPONSIBLE BID** - The offer from the responsible bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It expressly is understood that the lowest responsible bid includes any related costs to the county in a total cost concept. The term "responsible" refers to the financial and practical ability of the bidder to perform the contract.

**MODIFICATION** - A document used to change the terms and/or conditions of a contract.

**PRE-BID/PROPOSAL CONFERENCE** - A conference conducted by the Purchasing Department for the benefit of those wishing to submit a bid or proposal for services or supplies required by the County. Held in order to allow bidders/proposers to ask questions about the proposed contract and particularly the contract specifications.

**PROPRIETARY INFORMATION** - Information in bids or proposal to which Vendor claims ownership or exclusive rights and which is protected from disclosure in the Texas Open Records Act (TEX. LOC. GOV'T CODE, chapter 551).

**PURCHASE ORDER** - An order by the Purchasing Department for the purchase of goods and services written on the County's standard Purchase Order form and which, when accepted by the vendor without qualification within the specified time limit, becomes a contract. It is the vendor's authority to deliver and invoice for goods or services specified, and the County's commitment to accept the goods or services for an agreed upon price.

**PURCHASE REQUISITION** - A request by a department to the Purchasing Department that authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services for the County and the Auditor to charge the appropriate department budget. This automated form is for internal use and cannot be used by a department to order materials directly from a vendor.

**PURCHASING** - The act, function, and responsibility for the acquisition of goods and services including construction and professional services.

**PURCHASING ACT** - Chapter 262, subchapter C of the Texas Local Government Code, which governs the conduct of purchasing activity for counties.

**PURCHASING AGENT** -The Purchasing Agent for the County whom reports to the Purchasing Board and his or her designated representatives.

**PURCHASING BOARD** - A board composed of the District Judge and the County Judge who are responsible for appointing the Purchasing Agent and approving the Department's budget.

**PURCHASING LAWS** - The laws that govern county purchasing including the following laws:

- Purchasing Act, (TEX. LOC. GOV'T CODE, ch. 262, subch. C)
- Public Property Finance Act, (TEX. LOC. GOV'T CODE, ch. 271, subch. B)

State Contract, (TEX. LOC. GOV'T CODE, sec. 262.002, 271.081-3)  
State Catalogue, (State Purchasing and General Services Act of 1993 TEX. REV. CIV. STAT. ANN. art 601b sec. 3.081(g) in co-ordination with TEX. LOC. GOV'T CODE, ch. 271.081-3)  
Services and Products of Severely Disabled, (TEX. HUM. RES. CODE ANN., sec. 122.014)  
Interlocal Cooperation Agreement, (TEX. GOV'T CODE ANN., ch. 791)  
Prompt Payment Act, (TEX. GOV'T CODE ANN., ch. 2251)  
Bidders from other States and 5% Retainage, (TEX. GOV'T CODE ANN., ch. 2252)  
Public Works Performance and Payment Bonds, (TEX. GOV'T CODE ANN., ch. 2253)  
Professional Services Procurement Act, (TEX. GOV'T CODE ANN., ch. 2254, subch. A)  
Wage Rate for Construction Projects, (TEX. REV. CIV. STAT. ANN., Art. 5159a)  
Sales tax exemption for incorporated purchases (TEX. TAX CODE ANN. § 151.131)  
Worker's Compensation Compliance (Workers Compensation Rule 110.110]

PURCHASING DEPARTMENT- Harrison County Purchasing Department and its staff.

REQUEST FOR OFFER (RFO) - A document that requests information about qualifications and details of services to be provided and costs for services that Commissioners Court orders exempt in compliance with TEX. LOC. GOV'T CODE, section 262.024 (a) (4).

REQUEST FOR PROPOSAL (RFP) - A document requesting an offer be made by a vendor, which allows for negotiations after a proposal has been received but before award of the contract for goods and services procured in compliance with TEX. LOC. GOV'T CODE, § 262.0295 or 262.030.

REQUEST FOR QUALIFICATIONS (RFQ) - A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act.

SEALED BIDS - Competitive bids required to be advertised in a newspaper and submitted to the Purchasing Department in a sealed envelope.

SEPARATE PURCHASES - Purchases made in a series of separate purchases, goods and services that in normal purchasing practices, would have been purchased in one purchase.

SEQUENTIAL PURCHASES - Purchases made over a period of time that in normal purchasing practices would be made as one purchase.

SERVICES - Includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal or professional services.

SOLE SOURCE ITEM - An item that can be obtained from only one source that is purchased in compliance with TEX. LOC. GOV'T CODE, § 262.024 (a)(7) and (c).

SOLICITATION - A document, such as an invitation for bid, request for proposal, request for offers or request for qualifications, issued by the Purchasing Department. The document contains terms and conditions for a contract and it seeks (solicits) a bid or proposal for goods or services needed by the County.

SPECIFICATIONS - A concise description of a good or service that an entity seeks to buy and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any item for delivery, or preparing or installing it for use. The specification is the total description of the item to be purchased.

VENDOR - One who sells something; a "seller".

## Chapter 3 Purchasing Authority and Policy

### PURCHASING AUTHORITY AND POLICY

#### Purchasing Laws

WHEREAS, the Texas State Legislature has enacted Purchasing Laws, it shall be the policy of Harrison County, acting through its duly appointed Purchasing Agent, to fully comply in all aspects with these laws as they are amended from time to time.

#### Purchasing Policy

The Commissioners Court has directed the Purchasing Agent to provide a centralized purchasing structure. The Purchasing Department, as well as elected and appointed officials, executive managers, and employees, will provide, to all responsible vendors an equitable and competitive access to the County procurement process. Further, County procurement will be conducted in a manner that will promote and foster public confidence in the integrity of the County procurement process.

The County Purchasing Policy is to:

- ✓ Seek the best quality, lowest priced goods and services that meet the needs of County and its personnel;
- ✓ Provide all responsible vendors and contractors, including HUBs, with equitable access to servicing the needs of County and its personnel through competitive acquisition of goods and services;
- ✓ Comply with all Federal and State laws that apply to county purchasing and comply with the policies and procedures in this manual.
- ✓ Manage County assets and inventory so that replacement costs are minimized and the County can account for all assets; and
- ✓ Dispose of all surplus, salvage, seized and abandoned property in a manner that both provides the most benefit to the taxpayers of County and complies with the law.

#### Application

The Purchasing Act applies to all departments: all district, county and precinct Officials and employees and all subdivisions of all district, county and precinct Departments.

The Purchasing Agent must purchase or lease all goods and services, including maintenance and repair, for all departments.

The Purchasing Agent must do all of the purchasing for all elected and appointed officials, all County executive managers and employees.

## Chapter 4 Harrison County Purchasing Code of Ethics

### HARRISON COUNTY PURCHASING CODE OF ETHICS

#### **Policy**

It is the policy of Harrison County that the following ethical principles shall govern the conduct of every employee involved, directly or indirectly, in the County procurement process.

#### **Responsibility to the County**

Employees will avoid activities, which would compromise or give the perception of compromising the best interests of Harrison County. Employees will not knowingly use confidential information for actual or anticipated personal gain.

#### **Conflict of Interest**

Employees will avoid any activity that would create a conflict between their personal interests and the interest of Harrison County. Such conflicts of interest would include being involved in any procurement in which:

- ✓ The employee or any member of the employee's family has a financial interest pertaining to the County procurement process;
- ✓ A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the County procurement process; or
- ✓ Any other person, business, or organization with whom the employees or a member of the employee's family is negotiating or has an arrangement concerning prospective employment.

If such conflicts of interest exist, the employee will notify the Purchasing Agent in writing and will remove him/herself from the County procurement process.

#### **Perception**

Employees will avoid the appearance of unethical or compromising practices in relationships, actions, and communications.

#### **Gratuities**

Employees will never solicit or accept money, loans, gifts, favors, or anything of value, from present or potential contractors, which might influence or appear to influence a purchasing decision.

#### **Confidential Information**

Employees will keep proponents' and contractors' proprietary information confidential.

Employees will keep County procurement information obtained from an RFP, RFQ or RFO confidential until after contract award.

## Chapter 5 General Purchasing Policy

### GENERAL PURCHASING POLICY

#### General Information

County will not be obligated to purchase goods that are delivered for use on a trial basis. Employees must not purchase goods or services for their own personal benefit.

#### Additional Responsibilities

Departments must be aware of budget balances and refrain from forwarding purchase Requisitions to the Purchasing Department that would request expenditures in excess of those balances.

Purchase requisitions for, which there is not adequate funding will not be processed. (See Chapter on Budget Policy)

Departments should plan purchases in order to keep expedited purchase requisitions to a minimum. The County rarely enjoys any economic benefits from rush purchases. In most cases, vendors attempt to charge prices for goods and services that are a premium when there is not proper time allowed for the Purchasing Department to explore sources, options, and alternatives. The Purchasing Department is committed to processing all purchase requisitions within a reasonable time frame.

Departments must provide the Purchasing Department ample time to process purchase requests.

- ✓ Departments should allow a two to three week cycle time on all purchases requested that are under \$50,000.
- ✓ Departments should allow a eight to ten week cycle time on all purchases requested that are over \$50,000.

Departments must assure that all employees responsible for making department requests for purchases, have read and understand the purchasing procedures in this manual.

The Purchasing Department must review all purchase requests to assure they are descriptive and specific but do not prevent competitive bidding of comparable goods.

Departments should make Purchasing aware of any problem relating to the vendor's performance by calling the Purchasing Department and following up with a written explanation of the situation.

Departments should understand and appreciate the nature of public purchasing, by reviewing and considering all purchase requests in order to promote competitive bidding.

#### IT Review of Data Processing Equipment

The Information Technology Department will review all purchase requests made by departments for soft and hard data processing equipment including printers. This procedure is to ensure compatibility and standardization. Goods will not be purchased that are not in compliance with the standardized equipment specifications as approved by the Commissioner's Court.

## Vendor List

The Purchasing Department will maintain a list of vendors who have requested that they be sent notices of solicitations that have been advertised. The list of vendors will be categorized by the commodity codes for the goods and services that the vendor has indicated they are capable of providing.

As a courtesy to vendors and as a means of encouraging competition, the Purchasing Department will attempt to send a notice of each solicitation to each appropriate vendor.

## Risk Management Issues

When departments sustain loss or damage to goods or buildings, and funding for replacement or repair is coordinated through the Maintenance Department, the actual purchase still must be processed by the Purchasing Department. Additionally, an Inventory Form must be completed by the Purchasing Department so that inventory files can be updated as appropriate.

## After Hours Emergency Purchases

In a declaration of a local state of disaster, the County Judge would be the authority to approve purchases. If an emergency need arises after regular work hours, and the dollar amount **does not exceed \$50,000**, each department must have written internal procedures for emergency purchases, which have been approved in writing by the Purchasing Agent.

The internal procedure should require that department employees contact their financial department or other designated person for approval. On the first working day after the purchase the department must deliver a purchase requisition to the Purchasing Department and provide written documentation to the Purchasing Agent. If the Purchasing Agent has approved no procedures, the department must wait until the next working day to make the purchase.

These purchases will be limited to the Road & Bridge Department, Building Maintenance Department and the Sheriff's Department. The purchases are allowed only to keep buildings and machinery in operating condition when their idleness would result in expense to the County.

The user is to obtain the best possible price when making an emergency purchase. The goods will usually be purchased from a vendor who has previously supplied the same or similar items.

If the amount exceeds \$50,000, the Commissioners Court by order must grant the exemption from formal competitive bidding even in an emergency situation.

## Chapter 6 Specifications

### SPECIFICATIONS

#### Definition

A specification is a concise description of goods or services that an entity seeks to buy, and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any goods or services for delivery, or preparing or installing them for use. The specification is the total description of the goods or services to be purchased.

#### Purpose

The purpose of any specification is to provide purchasing personnel with clear guides from which to purchase, and to provide vendors with firm criteria of a minimum standard acceptable for goods or services. A good specification has four characteristics:

1. It establishes the minimum acceptability of the goods or services;
2. It promotes competitive bidding;
3. It contains provision for reasonable tests and inspections for acceptability of the goods or services; and
4. It provides for an equitable award to the lowest and best bid from a responsible bidder.

#### Preparation

The user department or an outside agency may propose specifications. THE FINAL ACCEPTANCE OF THE SPECIFICATIONS WILL REST WITH THE PURCHASING AGENT. This will ensure proper quality control and avoid the proliferation of conflicting specifications in the different departments of County.

#### Types

There are a number of specification types, which will be employed by the Purchasing Department.

They include:

**DESIGN** - A detailed description of goods or services, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed for the provider to produce goods and services of minimum acceptability. Design specifications are usually required for construction projects, custom produced goods, and for many services.

**PERFORMANCE** - Where the goods or services are described in terms of required performance. They may include such details as required power, strength of material, test methods, and standards of acceptability and recommended practices. This type specification should be used more often for capital equipment.

**BRAND-NAME OR EQUAL** - Lists goods or services by brand-name, model, and other identifying specifics, except that products equal to the characteristics of the named brand are specified as acceptable. Usually the composition of a brand-name good and service are provided through labeling, but broader tolerances and less consistency from item to item may be expected as compared with standard goods. Other manufacturers may provide a nearly identical good under their own brand name.

**INDUSTRY STANDARD** - This is one of the simplest specifications available. All goods made to an industry standard are identical, regardless of manufacturer and will result in acquisition of goods of uniform quality



## Chapter 7 Requisition Process

### THE REQUISITIONING PROCESS

#### Definition

Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized.

The department's purchase requisition authorizes the Purchasing Department to enter into a Contract with a vendor to purchase goods or services. This form is for internal use and cannot be used by a department to order materials directly from a vendor.

Purchase requisitions should fully describe to the Purchasing Department what to buy, when it is required, and where the goods are to be delivered or the services to be performed.

#### Policy

Harrison County utilizes a standard requisition form. Based on established budget line items, purchase requisitions are delivered to the Purchasing Department by the user department. Adequate budget funds must be available in the departmental line items **before** the Purchasing Department can proceed with the purchase of the requested goods and services.

After the Purchasing Department receives a purchase requisition, it determines the appropriate purchasing procedures based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services and other relevant factors.

#### Types of Purchase Requisitions

The Purchasing Department classifies purchase requisitions according to the type of action and the time required for the purchase. There are three types: routine, expedited and emergency.

**ROUTINE** Normal purchases have a *cycle time* of 3 to 10 working days.

**EXPEDITED** Purchases where the goods or services are needed sooner than the routine *cycle time*. Expedited purchases do not qualify as emergency purchases and are subject to all applicable bidding requirements. *Cycle time* for expedited purchase requisitions is 1 to 3 working days.

NOTE: Expedited purchases are **NOT** emergency purchases. They are goods or services needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal work routine. They should not be used unless absolutely required.

#### EMERGENCY

Purchase of any goods or services needed because of an emergency condition that the

Commissioners Court has ordered exempt, in compliance with the Purchasing Act LGC § 262.024 (a)(1), which states, " an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county."

All emergency exemption orders must be processed through the Purchasing Department. The Purchasing Agent will submit the order and agenda item for Commissioners Court approval.

1. If total cost is **under \$50,000** - These are handled as an expedited purchase requisition.
2. If total cost is **over \$50,000** - These must be exempted from the requirements of the Purchasing Act by Order of Commissioners Court. The user department should immediately contact the Purchasing Agent so that proper action can be immediately initiated.

**Note:** *Cycle time* refers to the time between when a purchase requisition is assigned to a buyer for action and when an actual purchase order is placed with a vendor. Cycle time does not include the time required for delivery, or the time it takes for the Purchasing Department or the user department to make corrections to budget line item accounts, commodity codes, etc.

Chapter 8 Procedures for Purchases Under \$50,000

**PROCEDURES FOR PURCHASES UNDER \$50,000**

**Policy**

For purchases of goods and services totaling less than \$50,000, the Purchasing Agent is authorized to select the exact goods or services to meet the requests of departments. The Purchasing Agent is authorized to select the vendor and to do all actions necessary to conclude a contract for the purchase of the goods and services, including execution of the contract without specific approval of the Commissioners Court.

**Considerations**

In selecting the exact goods or services requested by the departments, the Purchasing Agent must consider the following:

1. The stated needs of the department and whether the selected goods or services meets those needs;
2. Available information about sources and prices of the goods and services;
3. The delivery requirements of the vendor and department;
4. And any other information that a reasonable and prudent purchasing professional would consider in all the circumstances of the purchase.

**Procedures**

Wherever reasonable and practical the Purchasing Agent or his/her staff will:

1. Attempt to obtain at least three telephone or fax price quotations, before selecting a vendor and make a written memorandum of the vendors called and prices offered; and,
2. Select the vendor who makes the best offer taking into account not only price but also the urgency of the departmental need and the speed of delivery and the quality of the goods and services offered; and,
3. Order these goods and services from the vendor who provides the quality, cost and delivery schedule most consistent with the best interest of the County.

Then, if quality and delivery terms meet County needs, the vendor who provides the lowest price will be selected. If the vendor offering the lowest price is not used, a notation should be made to indicate the reason another vendor was selected. The Purchasing Agent has the authority to deviate from the policy for purchases under \$50,000 if it is in the best interest of Harrison County and if it will facilitate specific County operations.

NOTE: If cumulative purchases from a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required and an annual term contract will be established. Cumulative purchases include countywide purchases, and are not limited to departmental requirements (i.e., Department supplies, computer paper, furniture, etc.).

**CAUTION: Intentionally separating purchases/invoices to avoid \$50,000 formal competitive bidding is a violation of the Purchasing Act.**

### **Modifications**

The Purchasing Agent may modify contracts for goods and services that are for less than \$50,000 if the modification is in writing and the aggregate cost of purchases under the contract will not exceed \$50,000.

Chapter 9 Purchasing Procedures for Purchases over \$50,000

**COMPETITIVE BIDDING FOR PURCHASES EXCEEDING \$50,000**

**Definitions**

Competitive bidding means letting available vendors compete with each other in order to provide goods and/or services.

The Texas Supreme Court described it as: "Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material item and services covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the item and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications".

The term "Formal Competitive Bidding" will be used in this manual, and is generally used in public purchasing, when the bidding process is in compliance with TEX. LOC. GOV'T CODE, § 262.023 and requires approval by a governing board, such as Commissioners Court.

"Sealed" bids (Invitation for Bid) will be used for contracts exceeding \$50,000. The Invitation for Bid (IFB) will solicit bids from vendors in response to the County's specifications and contractual terms and conditions. The returned, signed, and awarded IFB with Notice of Contract Award letter signed by the Purchasing Agent, will form the contract between Harrison County and the vendor.

**Purpose of Competitive Bidding**

The first purpose of competitive bidding is to ensure that public monies are spent properly, legally, and for public projects only, and that the best possible value is received for the money. (This is, in fact, always the main purpose of public procurement, even when purchases do not require the formal approval of a governing board).

The second purpose is to give those qualified and responsible vendors who desire to do business with the County a fair and equitable opportunity to do so. The use of a standard and consistent procurement process, provides the public with an assurance that their tax dollars are being spent properly.

The Texas Supreme Court states, "its purpose is to stimulate competition, prevent favoritism, and secure the best work and materials at the lowest practicable price for the best interest of the taxpayers and property owners."

## **Procedures**

Formal competitive bidding, which calls for formal approval by Commissioners Court due to a required expenditure in excess of \$50,000, will in Harrison County, with few exceptions, be accomplished by the following:

### **Purchase Requisition**

A form submitted to the Purchasing Agent and signed by the Elected Official or Department Head or designated agent will serve as the initial purchase requisition for goods or services. Descriptions and/or specifications should be attached to the memo.

The Purchasing Department will not proceed with a purchase unless the appropriate budgeted line item includes sufficient unencumbered funds for the purchase.

### **Bidding Notice**

After development of specifications, preparation of the IFB and Commissioner's Court approval, a notice of the proposed purchase will be published by the Purchasing Department.

A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the bid opening. This is to ensure bidders sufficient time to complete and return IFB's. If necessary, advertising time can be extended or decreased, but less than 15 days would be a violation of the Purchasing Act.

The notice must include:

1. The specifications describing the goods and services to be purchased, or a statement of where the specifications may be obtained;
2. The time and place for receiving and opening bids and the name and position of the employee to whom the bids are sent;
3. Whether the bidder should use lump-sum or unit pricing;
4. The type of bond required of the bidder; and
5. The method of payment by the County.

If unit pricing is required, County will specify approximate quantities estimated on the best available information. The Purchasing Agent shall explain how the lowest price will be calculated in the bid specification.

### **Amendment of IFB**

The Commissioners Court authorizes the Purchasing Agent to extend the bid opening date on the notice of an Invitation For Bids if an error is discovered, or the nature of the goods and services requires an extension. The Purchasing Agent may amend an IFB to clarify their original intent or to correct clerical errors if inquiries about the meaning of the IFB indicate the need for an amendment, and if the amendment does not change the scope of the IFB. There must be at least three days between the date of the amendment and the opening date specified in the notice.

### **Receipt of Competitive Bids**

The following procedures will be adhered to when receiving bids:

- ✓ The Purchasing Agent will receive all bids.
- ✓ All bids will be stamped with the time and date received. The "Date Stamp" and "Clock" in the Purchasing Department will serve as the OFFICIAL time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
- ✓ NO BIDS will be received after the closing time on the day of bid opening. All bids received after the closing time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received subsequent to the due date and time.
- ✓ The Purchasing Department will record the name of the vendor's representative submitting the bid, as well as the time and date the bid was submitted. If a bid is received by mail, express mail, or by courier, the method of delivery will be reflected in the record.
- ✓ After bids are received, the Purchasing Department will provide a secure place for the holding of the bids until the bid opening date. The bids are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
- ✓ On occasion, bids, which are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, the bid will be sealed again by the Purchasing Department staff and the occasion will be documented on the bid envelope.

The above process should be undertaken in a manner that will preclude any notion of favoritism, revealing bid prices or information. Having sealed bids publicly received and recording the submission of requested bids should inhibit any perception that the Purchasing Department is manipulating the receiving of bids.

## **Public Opening of Bids**

Sealed bids will be opened publicly by the Purchasing Department and will be documented. Copies of bids and/or bid tabulations may be obtained from the Purchasing Department after the bid is formally awarded by the Commissioner's Court. The Purchasing Agent will open the bids on the date, time and place specified in the notice.

## **Evaluation**

The Purchasing Department will evaluate all bids, with assistance from the using Department if needed, and a recommendation about the lowest responsible bid will be made to Commissioners Court. The Purchasing Department will evaluate bids based on relative price of the bids, including the cost of repair and maintenance if heavy equipment if the subject of the bid and the cost of delivery and hauling of road construction is involved; the compliance of products with specifications; and the responsibility of the vendor, including the vendor's financial and practical ability to perform the contract and the vendor's safety record if stated in the invitation for bids.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bid must be documented to the Commissioners Court.

Commissioners Court will either approve the recommendation or reject all bids and authorize the Purchasing Agent to re-bid the goods and/or services.

## **Contract Award**

The Purchasing Agent shall recommend contract award to Commissioners Court in session. The Commissioner's Court shall:

1. Award the contract to the responsible bidder who submits the lowest and best bid; or
2. Reject all bids and publish a new notice.

If two responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge.

A contract may not be awarded to a bidder who is not the lowest priced bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence concerning the lower bidder's responsibility. After an award is made, a notice of contract award form will be processed. The original bids will remain in the Purchasing Department.

## **Contract Administration**

The user department will be responsible for monitoring and documenting contractor performance/compliance. All such documentation must be shared with Purchasing. If poor performance or non-compliance with the contract is evident, Purchasing will be responsible to initiate corrective action with the vendor.



This aspect of the procurement process is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc. must be documented.

### **Modifications**

The Commissioners Court delegates its authority to modify contracts awarded under this chapter to the Purchasing Agent at any time in writing if the changes are within the general scope of the contract including changes to any of the following:

- ✓ Drawings, designs, or specifications when the goods to be furnished are to be specially manufactured for the County in accordance with the drawings, designs, or specifications.
- ✓ Method of shipment or packing.
- ✓ Place of delivery.
- ✓ Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, and does not result in additional expense to the Contractor.

### **Renewal of Annual Contracts**

The Purchasing Department monitors the expiration dates of all contracts. Purchasing will notify the using departments to verify whether the goods or services need to be re-bid. The using department will notify the Purchasing Agent of any additions, deletions, or corrections that need to be made to the specifications.

## COMPETITIVE PROPOSALS FOR INSURANCE, HIGH TECHNOLOGY GOODS AND SERVICES AND SPECIAL SERVICES EXCEEDING \$ 50,000

### Definitions

In this chapter, competitive proposals may be solicited through a Request for Proposals (RFP).

Formal "sealed" Request for Proposals (RFP) will be used to procure insurance, high technology goods and services and the special services of landscape maintenance, travel management and recycling which exceed \$50,000. The RFP will solicit proposals from vendors in response to the County's requirements and contractual terms and conditions. The Commissioners Court must approve a formal contract, reviewed by the County Attorney's Department.

"High technology" goods or services means goods or services of a highly technical nature, including:

- ✓ data processing equipment and software and firmware used in conjunction with data processing equipment;
- ✓ telecommunications, radio, and microwave systems;
- ✓ electronic distributed control systems, including building energy management systems; and
- ✓ technical services related to those goods and services.

### Procedures

Competitive proposals for insurance, high technology goods and services and special services will be accomplished by the following:

### Requisition

A requisition form submitted to the Purchasing Agent, signed by the Elected Official, Department Head, or authorized Agent, will serve as the initial requisition. The memo must include the budget line items from which the purchase will be funded or another explanation about how funding will be obtained that is acceptable to the Purchasing Department before the Purchasing Department will proceed with the preparation of the competitive proposal. Requirements should be attached to the requisition. If requirements are not attached, Purchasing and the user department will jointly develop the requirements.

## Notice

After development of requirements and preparation of the RFP and Commissioner's Court approval of the RFP, a notice of the proposed purchase will be published by the Purchasing Department. A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the proposal opening. If necessary, advertising time can be extended or decreased, but less than 14 days would be a violation of the Purchasing Act.

The notice must include:

- ✓ The specifications describing the goods and services to be purchased, or a statement of where the specifications may be obtained;
- ✓ The time and place for receiving and opening RFP's and to whom the RFP's are sent;
- ✓ Whether the proponent should use lump-sum or unit pricing;
- ✓ The method of payment; and
- ✓ The method of bond required of the proponent.

## Receipt of Competitive Proposals

The following procedures will be adhered to when receiving proposals:

- ✓ The Purchasing Agent will receive all proposals.
- ✓ All proposals will be stamped with the time and date received. The "Date Stamp" and "Clock" in the Purchasing Department will serve as the OFFICIAL time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
- ✓ NO RFP's will be received after the closing time on the day of proposal opening. All RFP's received after the closing time will be returned unopened to the proponent with a letter from the Purchasing Agent notifying the proponent that the submitted proposal was received subsequent to the due date and time.
- ✓ Vendor's representative submitting the proposal, as well as the time and date the proposal was submitted. If a proposal is received by mail, express mail, or by courier, the method of delivery will be reflected in the record.

- ✓ After proposals are received, the Purchasing Department will provide a secure place for the holding of the proposals until the proposal opening date. The proposals are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department.
- ✓ On occasion, proposals, which are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, the proposal will be sealed again by a member of the Purchasing Department staff and the occasion will be documented on the RFP envelope.

The above process should be undertaken in a manner that will preclude any notion of favoritism, or revealing proposal information. Having sealed proposals publicly received and recording the submission of requested proposals should inhibit any perception that the Purchasing Department is manipulating the receiving of proposals.

### **Opening of Proposals**

Sealed proposals will be opened by the Purchasing Agent and will be documented. Proposals are not opened publicly. Only the names of proponents submitting proposals will be announced. The Purchasing Agent will open the proposals on the date specified in the notice. Purchasing Agent may extend the date specified in the notice if an error is discovered in the original RFP.

Proposals will be opened so as to avoid disclosure of contents to competing proponents and will be kept secret during the process of negotiation. All proposals that have been submitted will be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

### **Evaluation**

The Purchasing Agent will evaluate all proposals, with assistance from the user department if needed, or by committee. Purchasing will make the recommendation to Commissioners Court.

The request for proposals (RFP) must specify the relative importance of price and other evaluation factors.

### **Negotiations**

The Purchasing Agent will supervise all negotiations. Any conversations with proponents must be in coordination with the Purchasing Agent. Departments contacting proponents without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process. All proponents must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals and submittal of a "Best and Final" offer.

### **Contract Award**

Commissioner's Court shall make the award of the contract to the responsible proponent whose proposal is determined to be the lowest evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the Request for Proposals (RFP).

## **Contract Administration**

The user department will be responsible for monitoring and documenting contractor performance/compliance. All documentation must be in writing and sent to the Purchasing Department. If poor performance or non-compliance with the contract is evidenced, Purchasing will be responsible to initiate corrective action with the vendor.

This aspect of the County procurement process is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific non-compliance issues, dates, locations, examples, etc. must be documented.

## **Modifications**

The Commissioners Court delegates its authority to modify contracts awarded under this chapter to the Purchasing Agent at any time in writing if the changes are within the general scope of the contract including changes to any of the following:

- ✓ Drawings, designs, or specifications when the goods to be furnished are to be specially manufactured for the County in accordance with the drawings, designs, or specifications.
- ✓ Method of shipment or packing.
- ✓ Place of delivery.
- ✓ Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, and does not result in additional expense to the Contractor.

## Chapter 10 State Purchasing Programs

### STATE CATALOGUE PURCHASES

#### Authority

There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously competed by the State of Texas or other governments. The Texas Comptroller of Public Accounts Procurement and Support Services (TPASS) manages two of them. The third program allows local governments to purchase computer technology directly from the state's Department of Information Resources (DIR).

- **State Term Contracts** (authorized by sections 271.081 through 271.083 of the Texas Local Government Code). The County may purchase from vendors on the same terms and conditions as the State. The State has entered into term contracts after using competitive bidding procedures. The TPASS manages this program for the State.
- **Texas Multiple Award Schedule (TXMAS)** (authorized by section 2155.502 of the Texas Government Code). The County may purchase goods and services from a schedule of multiple award contracts developed by the TPASS. The schedule is adapted from General Services Administration (GSA) Federal Supply Service contracts. TXMAS contracts take advantage of the most favored customer (MFC) pricing and under certain circumstances; the County may negotiate a lower price for the goods or services offered on a scheduled contract.
- **DIR** (authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code). The County may purchase computer-related equipment through the DIR and its contracted vendors.

#### Purchasing Procedures

To ensure that the County receives the "Best Value" from catalogue purchases the following procedures will be used:

The Purchasing Agent acts for Harrison County in all matters related to purchase of goods and services from a vendor under any contract based on any State Purchasing program. Harrison County is responsible for making payments directly to these vendors.

The award of any purchase order contract from state term, TXMAS or DIR contracts must be in writing, approved and signed by the Purchasing Agent before any goods are delivered or services are rendered. The Commissioners Court authorizes the Purchasing Agent to execute all contracts for state contract purchases that are procured in compliance with this chapter, including purchases in excess of \$50,000, if funding for the purchase was previously approved by the Commissioners Court.

#### State Term Contract Purchases

Harrison County participates in the purchasing program of TPASS for local governments.

The Purchasing Agent either submits requisitions to the TPASS under a contract or electronically sends purchase orders directly to vendors and reports to TPASS on actual purchases in compliance with its regulations. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent

may sign and deliver all necessary documents for all purchases under this program made for the County.

To initiate this process, the user department submits a purchase requisition. The Purchasing Office determines whether or not the requested goods or services are available from TPASS contracts. If they are available, the Purchasing Office assigns a state requisition number that is used for reporting and payments.

### **Texas Multiple Award Schedules (TXMAS) Purchases**

Harrison County participates in the purchasing program of the TPASS using TXMAS contracts developed from contracts that have been competitively awarded by the federal government or any other governmental entity of any state.

The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases under this program for Harrison County.

### **Department of Information Resources (DIR) Purchases**

The County may purchase computer-related equipment and services through the state's Department of Information Resources (DIR) and from its contracted vendors.

The Purchasing Agent either submits requisitions to the DIR under any contract or electronically sends purchase orders directly to DIR vendors. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases under this program made on behalf of the County.

To initiate the above processes, the user department submits a purchase requisition. The Purchasing Office determines whether or not the requested goods or services are available from the above mentioned contracts. If they are available, the Purchasing Office issues a purchase order in accordance with the set procedures established for that particular State Purchasing Program.

## Chapter 11 Cooperative Purchasing Agreements

### Cooperative Purchasing Agreements

#### Authority

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. Texas Government Code, Section 791.025(c) states that a local government that purchases goods and any services reasonably required for the installation, operation, or maintenance of those goods under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and their services. The County has a variety of interlocal agreements.

The County participates in the purchasing programs of various local, state, and national cooperatives such as Houston Area Council of Governments (H-GAC), Texas Association of School Boards (BuyBoard), The Cooperative Purchasing Network (TCPN), and U.S. Communities. Before using any cooperative, the Purchasing Agent researches and recommends cooperatives to the Commissioners Court. The Commissioners Court approves an interlocal agreement acknowledging the terms and conditions for using each cooperative, including any fee schedules, and authorizes the Purchasing Agent to make purchases under the terms of the interlocal agreement.

The Purchasing Agent acts for Harrison County at the direction of Commissioners Court in all matters relating to all cooperative purchasing programs, including the purchase of goods and services from a vendor under any contract.

The Purchasing Agent must approve all interlocal agreements involving the purchase of goods, repair, or maintenance agreements before the agreement is submitted to Commissioners Court for approval.

.To initiate the process, the user department submits a purchase requisition. The Purchasing Office determines whether or not the requested goods or services are available from a cooperative purchasing agreement. If they are available, the Purchasing Office issues a purchase order in accordance with the set procedures established for that particular cooperative agreement.

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The Purchasing Agent either submits requisitions to the applicable cooperative or sends purchase orders directly to vendors using the processes defined by the specific cooperative. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and the quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases under cooperative purchasing programs made on behalf of the County.

The Purchasing Agent may execute all contracts for purchases through interlocal agreements that are procured in compliance with this chapter, including purchases in excess of \$50,000, provided funding for the purchase has been approved by the Commissioners Court and the interlocal agreement was approved by the Commissioners Court.

All interlocal agreements that involves the purchase of goods, services, repair, or maintenance agreements must be approved in writing by the Purchasing Agent before being submitted to Commissioners Court for approval



## Chapter 12 Procurement of Professional Services

### PROCUREMENT OF PROFESSIONAL SERVICES

#### Introduction

This was the most difficult chapter to write due to the various laws, which define (or do not define) professional services and which dictate how these services are to be procured. The two principal laws, which the Purchasing Agent must comply when procuring professional services are the Professional Services Procurement Act and the Purchasing Act.

There are two kinds of professional services:

- 1) Those professional services specifically defined under the Professional Services Procurement Act; and,
- 2) Those "other" professional services that are not specifically defined under the Purchasing Act. The Purchasing Agent must rely on court cases and attorney general opinions to determine what these "other" professional services are.

This chapter will first explain purchasing procedures relating to services defined under the Professional Services Procurement Act. Then purchasing procedures relating to "other" professional services under the Purchasing Act will be explained.

#### Purpose

The Purchasing Department may contract for professional services only if there is a substantial need for these services and the department cannot adequately perform the services with its own personnel.

### PROFESSIONAL SERVICES PROCUREMENT ACT

#### Definition

Professional services are defined in the Professional Services Procurement Act as:

Those within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, or professional engineering as defined by the laws of the State of Texas;

- ✓ Those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, or professional engineer in connection with his professional employment or practice.
- ✓ The Act states that contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

#### Request for Qualifications Policy (RFQ)

To ensure vendors a fair and equal opportunity to do business with the County, and to ensure that the services of the most qualified professional is obtained,

Commissioners Court has directed that professional services be procured using the Request for Qualifications (RFQ) process.

### **Procedures**

Departments shall forward a requisition to the Purchasing Agent when professional services are required. The requisition will identify the following:

- scope of work
- qualification/experience requirements
- project description and deliverables
- time frames
- budgeted amount and budget line items
- suggested professionals

Based on the information provided in the requisition, applicable state laws and all relevant facts, the Purchasing Agent will make a determination as to whether a formal RFQ or an informal procurement process will be implemented.

Unless specifically exempted by the Commissioners Court, as defined in LGC, Section 262.024(a)(4), all professional services anticipated to cost over \$ 50,000 will be procured using the formal RFQ process. The Purchasing Agent will submit all exemption orders to the Commissioners Court. Unless there is an urgent need for the services, the exemption order will be submitted to the Commissioner Court for approval before selecting and negotiating with any vendors.

### **Architectural and Engineering Services**

When procuring architectural or engineering services, the County will use a two-step selection process. First, the Purchasing Agent will present to the to Commissioners Court a vendor capable of performing the service, on the basis of demonstrated competence and qualifications (via an RFQ). The Purchasing Agent and appropriate official will then enter into negotiations on a contract at a fair and reasonable price.

If the County is unable to negotiate a satisfactory contract with the most highly qualified vendor, negotiations will formally end with that person or firm. The next most highly qualified vendor will then be asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

If any contract is entered into with one of the above mentioned professionals on the basis of a competitive bid, it is contrary to state law, County policy and is void.

### **Written Contract**

Any contract for professional services shall be in writing, approved and signed by the Commissioners Court, prior to any services being rendered.

### **Contract Modifications**

It is the policy of the County that all change orders must be processed through the Purchasing Department.

Commissioner's Court must approve all change orders. The total contract price may not be increased unless the cost of the change can be paid from current and available funds.

## "Other" Services Defined

As defined in this manual "other" professional services are those services usually referred to as a professional service, but not specifically defined or covered in the Professional Services Procurement Act. Examples include computer programmers, lawyers, facilitators, etc. Various court opinions have defined these "other" professional services as services requiring technical skill and expertise; labor and skill which is predominantly mental or intellectual, rather than physical or manual; or, a special skill and experience.

## Request for Proposals (RFP)

To ensure vendors a fair and equal opportunity to do business with the County, and to ensure the services of the most qualified professional, "other" professional services must be procured using the Request for Proposal (RFP) process unless the contract will be for less than \$50,000.

## Procedures

Departments must forward a requisition to the Purchasing Agent when "other" professional services are required. The requisition will identify the following:

- scope of work
- qualification/experience requirements
- project description and deliverables
- time frames
- budgeted amount and budget line items
- suggested professionals

Based on the anticipated costs, information provided on the form, applicable state laws and all relevant facts, the Purchasing Agent will make a determination as to whether a formal RFP or an informal procurement process will be implemented or recommended to the Commissioners Court.

In selecting vendors to provide other professional services, a department shall base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services, as specified in the RFP.

Unless specifically exempted by the Commissioners Court, all professional services anticipated to cost over \$50,000 will be procured using the formal RFP process. The Purchasing Agent will submit all exemption orders to the Commissioners Court. Unless there is an urgent need for the services, the exemption order will be submitted to the Commissioners Court for approval before selecting and negotiating with any vendors.

## Restriction on Former Employees

A person who offers to provide professional services to a department who has been employed by the County at any time during the two years before the making of the offer shall disclose in the offer:

- ✓ The nature of the previous employment with the department,
- ✓ the date the employment was terminated, and
- ✓ the annual rate of compensation at the time of termination.

### **Written Contract**

Any contract for "other" professional services shall be in writing, approved and signed by the Commissioners Court, prior to any services being rendered.

### **Contract Modifications**

It is the policy of the County that all change orders must be processed through the Purchasing Department.

All change orders must be approved by Commissioners Court.

The total contract price may not be increased unless the cost of the change can be paid from current and available funds.

## Chapter 13 Construction Procurement

### CONSTRUCTION PROCUREMENT

#### Purchasing Statutes

LGC § 262.011 (e) of the Texas Local Government Code states that "The County Purchasing Agent shall supervise all purchases made on competitive bid..."

§ 271.024 of the Texas Local government Code states that "...to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$50,000... bidding on the contract must be accomplished in the manner provided by this subchapter."

#### Supervision by Purchasing

Construction procurement will be consistent with other procurement procedures as defined in this manual and in accordance with pertinent statutes. The Purchasing Agent will supervise all construction procurements. All competitive bids will be accomplished by the following.

#### Requisition

A form submitted to the Purchasing Agent, signed by the Elected Official, Department Head or Authorized Agent will serve as the initial notification that a competitive bid is needed. A draft copy of the plans and specifications will be submitted with the requisition. The specification book will be reviewed and approved by the Purchasing Agent and County Attorney prior to being submitted to the printer for copies.

Purchasing will be provided a minimum of five (5) workdays for review of the plans and specifications. During this time Purchasing will confer with the user department to establish dates and times for pre-bid conference (mandatory or non-mandatory), bid opening, and pre-construction conference. An IFB number and contract number will be assigned to the project at this time.

#### Bidding Notice

The Purchasing Department will publish the advertisement for bid, which must include the following:

1. Description of Work
2. Location at which the bidding documents, plans, specifications, or other data may be examined by all potential bidders. Also the location at which plans and specifications may be obtained and the amount of the deposit required.
3. Time and place for submitting bids and time and place of bid opening.

#### Bonding Requirements

No bonds will be required for construction contracts that are less than \$50,000.

### **Bid bonds**

Bid bonds will not be required for construction contracts that are less than \$100,000. Bid Bonds will not be required from any bidder whose rates are subject to regulation by a state agency.

If the Purchasing Agent decides that a bid bond is required for a particular contract, the invitation for bids or request for proposals will state a bid bond in the amount of 5% of the contract price is required and that it must be executed by a surety company authorized to do business in Texas.

### **Performance Bonds**

For all contracts in excess of \$100,000 for the construction, repair or alteration of a public work or the prosecution or completion of any public work, the contractor, before commencing work, must execute a performance bond that

- ✓ is payable to Harrison County, Texas
- ✓ is in the full amount of the contract
- ✓ is conditioned on faithful performance of the work in accordance with the plans, specifications, and contract documents
- ✓ is solely for the protection of the County
- ✓ executed by a corporate surety or sureties in accordance with the Insurance Code in a form approved by the Commissioners Court

Any performance bond that is furnished by a contractor in attempted compliance with the requirements of TEX. GOV'T CODE ANN., ch. 2253 will be construed as in conformity with that chapter in relation to rights created, limitations on the bond and remedies provided.

### **Payment Bonds**

For all contracts in excess of \$50,000 for the construction, repair or alteration of a public work or the prosecution or completion of any public work, the contractor, before commencing work, must execute a payment bond that is solely for the protection of all claimants supplying labor and material in the prosecution of work provided in the contract

- ✓ is payable to Harrison County, Texas for the use of these claimants
- ✓ is in the full amount of the contract
- ✓ executed by a corporate surety or sureties in accordance with the Insurance Code in a form approved by the Commissioners Court

Any payment bond that is furnished by a contractor in attempted compliance with the requirements of TEX. GOV'T CODE ANN., ch. 2253 will be construed as in conformity with that chapter in relation to rights created, limitations on the bond and remedies provided.

## Pre-Bid Conference

Purchasing will schedule the Pre-Bid Conference and will assist in conducting the Conference to the following extent:

1. Have all attendees sign the attendance roster.
2. Brief introduction of the project title, magnitude, and performance period.
3. Indicate whether there have been any addenda issued, and if so, ensure all attendees have received a copy.
4. Discuss the Purchasing Department's role in the procurement and administration process.
5. Have the project Engineer or Architect discuss the specifics of the project to include review of the plans and specifications, allowing for question and answer session.
6. Determine any issues discussed that requires issuance of an addendum. Addendum will be issued by the Purchasing Department, and will only be issued if there are at least seven (7) days between the date of the addendum and the date specified for bid opening. The user department will provide Purchasing with the technical documents (i.e. changes/additions to the plans and or specifications) with the Purchasing Department's standard "Amendment/Modification" form as a cover sheet. Purchasing will be responsible for distributing the addendum to all applicable parties. In cases in which development of the plans and specifications were performed by an out source, i.e. independent Architect and Engineering firm, the A&E Firm will be responsible for distribution of the addendum.
7. Record the minutes of the meeting and distribute them to all attendees.

## Receipt of Competitive Bids

The following procedures will be adhered to when receiving bids:

1. The County Purchasing Department will receive all bids.
2. All bids will be stamped with the time and date received. The "Date Stamp" and "Clock" in the Purchasing Department will serve as the OFFICIAL time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
3. NO BIDS will be received after the closing time on the day of bid opening. All bids received after the closing time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received subsequent to the due date and time.
4. The Purchasing Department will record the name of the contractor's representative submitting the bid, as well as the time and date the bid was submitted. If a bid is received by mail, express mail, or by courier, the method of delivery will be reflected in the record.

5. After bids are received, the Purchasing Department will provide a secure place for the holding of the bids until the bid opening date. The bids are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
6. On occasion, bids, which are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, the bid will be sealed again by an employee of the Purchasing Department, together with a witness, and the occasion will be documented.

The above process shall be undertaken in a manner that will preclude any notion of favoritism, revealing bid prices, or any information. Having sealed bids publicly received and recording the submission of requested bids should inhibit the perception that the Purchasing Department is manipulating the receiving of bids.

### **Public Opening of Bids**

Sealed bids will be opened publicly by the Purchasing Agent and will be documented. Copies of bids and/or bid tabulation sheets may be obtained from the Purchasing Department upon request after the Commissioner's Court has awarded the bid. The Purchasing Agent will be responsible for creating the bid tabulation and providing a copy for distribution to the general public.

The Purchasing Agent, or designated representative, will open the bids on the date, time and place specified in the notice. The Purchasing Agent may extend the date specified in the notice if an error is discovered in the original specifications. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

### **Evaluation of Bids**

The Purchasing Department will evaluate all bids, with assistance if needed, and a recommendation will be made to Commissioners Court. Purchasing will be responsible for placing the item on the agenda.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bidder must be documented to the Court. This recommendation will be supported by clear and concise documentation that defines the rationale for awarding to other than the lowest bidder.

### **Contract Award**

The Purchasing Agent will recommend contract award to Commissioners Court in session. The Court shall:

1. Award the contract to the responsive and responsible bidder who submits the lowest and best bid; or
2. Reject all bids and publish a new notice.

If two responsive and responsible bidders submit the lowest and best bid, the Commissioner's Court shall decide between the two by drawing lots in a manner prescribed by the County Judge.



A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence concerning the lower bidder's responsibility.

After an award is made, a contract will be processed, and copies of the contract will be sent to the contractor and the original copy will remain with the contract file in Purchasing.

A Notice-of-Award (NOA) letter, which will be issued by the Purchasing Department, will accompany the contractor's copy of the contract. The NOA letter will be sent "Certified Receipt Requested" and will include the requirements for submission of various documents by the contractor, and the time period within which they must be submitted. For example, Bid and Performance Bonds, along with Insurance Certificate must be submitted within ten (10) workdays after receipt of the NOA letter. The Progress Schedule will indicate their submission at the Pre-Construction Conference. The NOA will also state that Notice-to-Proceed will not be issued until such time as the required documents are submitted by the contractor within the specified time period, unless otherwise indicated.

### **Pre-Construction Conference**

Purchasing will schedule the Pre-Construction Conference, also known as the Pre-Performance Conference. Purchasing will assist in conducting the Conference to the following extent:

1. Have all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project.
2. Briefly discuss the contract requirements, amount, and any other pertinent information about the project. The user department representative (technical rep) will be responsible for providing a thorough synopsis of contract requirements and any County policies that must be adhered to.
3. Establish dates for Submissions of all required documents such as material submittals, payrolls, progress reports (when applicable) etc.
4. Receive required documents from the contractor, i.e., Insurance Certificate, etc.
5. Issue Notice-to-Proceed (NTP). IT'S IMPORTANT TO NOTE, NTP WILL NOT BE ISSUED UNTIL ALL REQUIRED BONDS AND INSURANCE HAVE BEEN RECEIVED, REVIEWED AND VERIFIED WITH THE APPROPRIATE AGENCY (I.E. SURETY OR INSURANCE AGENCY).
6. Ensure a complete understanding by all parties on all issues prior to adjourning.
7. Prepare minutes of the Conference, including all technical discussions. Minutes will be distributed to all attendees.

## Contract Administration

The Project Manager will be responsible for monitoring and documenting contractor performance/compliance and provide Purchasing with copies of this documentation, thereby keeping Purchasing apprised of all performance and compliance issues. If poor performance or non-compliance with the contract is evidenced, the Project Manager will be responsible to initiate written corrective action with the contractor. Purchasing will be provided an advance copy of any written correspondence directing correction of a discrepancy. The Project Manager will solicit Purchasing to initiate corrective action when the Project Manager cannot resolve any conflict through correspondence.

Documentation of Contractor performance is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc. must be documented.

Contract administration duties shall include, but will not be limited to the following activities. (NOTE: The following outlines the basic daily, weekly, and monthly activities of the Purchasing Agent that must take place to ensure successful completion of the project, and more importantly to ensure the County receives that which it contracted for. Unless otherwise noted, the following are responsibilities of the Purchasing Agent):

1. Schedule and assist in conducting the pre-construction conference.
2. Maintain a comprehensive, neat and orderly contract file that includes all documentation relative to the procurement process to include the pre-solicitation, solicitation, contract award, post award, and administration phases of the project.
3. Receive and review a copy of contractor's Progress Schedule (to include the initial schedule and period reports as applicable), ensuring it is submitted within the time period as specified in the contract specifications.
4. Ensure contractor submittals' are provided to the County as prescribed by the submittal schedule established during the pre-construction conference.
5. Receive and review copies of contractor payrolls to ensure payments made to contractor employees are in accordance with the prevailing wage rate classifications by trade included in the contract.
6. Perform periodic site visits to the construction site to perform spot labor interviews to further ensure contractor compliance with prevailing labor laws.
7. Receive and review copies of contractor invoices for accuracy. Invoices to be verified against progress reports, when applicable, with any discrepancies being reported to the contractor and Project Manager for resolution. The Project manager will provide Purchasing with a copy of the invoice immediately upon receipt from the contractor. However, approval of the invoice by the Purchasing Department IS NOT REQUIRED.

8. Correspondence: All correspondence, concerning major issues, between the contractor and the County shall be directed through the Purchasing Department. This will ensure that Purchasing is aware of any directives being issued to the contractor or any potential problems that may occur in the performance of the contract. In emergency situations, in correspondence regarding minor issues, correspondences may be issued directly to the contractor through the Project Manager. However, Purchasing should be provided a copy immediately.
9. Purchasing will be responsible for maintaining all insurance and bond certificates. Bid bonds will be provided with all bids over \$100,000 and will be maintained in the Purchasing Department's locked files. Bid bonds will be returned to all bidders within five (5) workdays after contract award. The contractor will provide payment and Performance Bonds within ten (10) workdays after receipt of the Notice-of-Award letter. They will be reviewed by both the Project Manager and purchasing, with the originals being maintained in the Purchasing Department locked files. Insurance certificates are to be provided by the contractor during the pre-construction conference. The certificate will be maintained in the main contract file in the Purchasing Department.

### Change Orders

1. Change order requests to construction contracts to allow for additional services must be approved by the Commissioner's Court on the recommendation of the Project Manager responsible for the project, subject to limitations stated in LGC § 271.060 (b). Notice of that change order request will be sent to the Purchasing Agent.

Negotiations of change orders, particularly those that result in an increase in contract price, performance period, change in the scope of the project, or contract time extensions will require the approval of the Architects, Project Manager and Commissioner's Court. Purchasing shall generate all written change orders and signed copies will be forwarded to all necessary parties. Records of all change orders shall be kept by the Purchasing Agent.

No change order shall be issued until it is determined that the necessary funds are available, with a statement to that affect included with the back up documentation.

Chapter 14 Exemptions to the Competitive Procurement Process

**DISCRETIONARY EXEMPTIONS TO THE COMPETITIVE PROCUREMENT PROCESS**

**Statute Policy**

Many goods and services can be exempt from competitive procurement process if the Commissioner's Court approves the exemption. Section 262.024 of the Texas Local Govt. Code lists all the exemptions.

**Policy**

Exemption orders must be processed through the Purchasing Agent: Emergency orders, Professional or Personal Services, Sole Source Goods and Services, and Leases & Maintenance contracts. In all cases, the Purchasing Agent will request the exemption order from Commissioners Court.

**Emergency**

- ✓ Goods and services that must be purchased in a case of public calamity, if it is necessary to make the purchase promptly to relieve the necessity of the citizens, or to preserve the property of the County;

**NOTE: EMERGENCY PURCHASES WHICH EXCEED \$50,000 REQUIRE AN EXEMPTION ORDER GRANTED BY COMMISSIONERS COURT BEFORE A PURCHASE ORDER CAN BE ISSUED.**

- ✓ Goods and services necessary to preserve or protect the public health or safety of the residents of the County;  
or
- ✓ Goods and services necessary because of unforeseen damage to public property;

**Sole Source Items**

Sole-Source items are those items, which perform a certain function for which no other items are known to exist. In a highly technological society, either patents or a clearly superior product may perform a function that limits the County to a sole-source.

Sole-source goods and services require a signed statement from the Purchasing Agent as to the existence of only one source, and specifically noting the existence of one of the following conditions. The statement will be accepted by Commissioners Court, and must be reflected in the minutes of the meeting of the Commissioner's Court. Sole-source items include:

- (a) Goods and services for which competition is precluded from bidding because of the existence of patents, copyrights, secret processes, or monopolies;
- (b) Films, manuscripts, or books;
- (c) Electric power, gas, water, and other utility services; and
- (d) Captive replacement parts or components for equipment.

## **Food Items**

The exemption granted only applies to sealed competitive bidding requirements. The Texas Local Government Code states that Counties shall solicit at least (3) three bids for the purchase of food items by telephone or written quote in intervals specified by the Commissioner's Court. Counties shall award food purchase contracts to the responsible bidder that submits the lowest and best bid. The Purchasing Department will maintain, on a form approved by the Commissioner's Court, a record of all bids solicited and the vendors contacted. The record will be kept in the Purchasing Department for a period of at least (1) one year or until audited by the County Auditor.

## **Procedure**

A memo must be submitted to the Purchasing Agent requesting an exemption to the Competitive procurement process. The memo must state specific details and explanation of why an exemption from the competitive procurement process should be requested and granted.

Chapter 15 Renewal of Equipment Leases and Maintenance Contracts

**EQUIPMENT LEASES AND MAINTENANCE CONTRACTS**

**Statute**

The renewal or extension of a lease or of an equipment maintenance contract can be exempt from formal competitive bidding, if the Commissioners Court by Order grants the exemption **AND IF**:

- a. the lease or contract has gone through formal competitive bidding within the preceding year;
- b. the renewal or extension does not exceed one year, and;
- c. the renewal or extension is the first renewal or extension of the lease or contract.

**Policy**

The procurement of all equipment leases and maintenance contracts will be processed through the Purchasing Department. All renewal or extension Exemption Orders will be processed through the Purchasing Department. Any negotiations with bidders will be supervised by the Purchasing Agent. Purchasing will maintain the original copy of the documents.

Purchasing will monitor maintenance contracts for expiration dates and will treat the renewal the same as annual term contracts.

The Purchasing Agent is authorized to execute any contracts for equipment leases and maintenance contracts that are procured in compliance with the Purchasing Act and in which the cost does not exceed \$50,000.

**Procedures**

User Department will submit a requisition to the Purchasing Department identifying the budget line item account. The requisition will identify the purchase as either a lease or maintenance contract.

The requisition should include the serial number, model number and physical location of equipment. The begin and end dates of coverage should be specified.

If the request is for a sole source lease or maintenance contract, the user department must follow up the requisition with a memo justifying why it is a sole source purchase.

NOTE: If the lease or maintenance contract is from an authorized State Catalog, the user department must include the Vendor ID number, part number, class and **item** number and contact person on the requisition.

The Maintenance Department and IT Department (IT) often are involved in the analysis of the appropriateness of maintenance contract versus in-house repairs.

Departments should coordinate with either Maintenance or IT on these analyses.

IT Department must be contacted on maintenance contracts for:

- ✓ software and hardware

NOTE: An often-overlooked cost of equipment or software is on going maintenance. All on-going maintenance issues should be considered, evaluated, and priced in the initial procurement process.

## Chapter 16 Receipt of Goods

### RECEIPT OF GOODS

#### Policy

Departments **MUST** notify the Purchasing Department if goods are not received by the due date or if damaged freight is delivered.

#### Verify Order

Department employees receiving shipments must pay particular attention to the delivery ticket, and how it matches with the original order. The person receiving the goods must verify that all goods were shipped as stated on the delivery ticket, and sign **IN HIS OR HER OWN NAME -- A FULL SIGNATURE IN INK** -- on all of the appropriate receiving documentation, particularly the County copy.

#### Damaged Freight

When a shipment arrives, user department must inspect the condition of all cartons. If freight is undamaged, the department receiving shipment should sign the freight bill.

If freight is visibly damaged, receiving department must instruct the freight line driver to:

1. Note the damage on the freight bill and then;
2. Sign the freight bill.

If there is concealed damage, save the shipping cartons so that the Purchasing Department can notify the freight line and request an "inspection and report of concealed damage". A receiving report noting the damage should be completed and matched with the receiving copy of the purchase order.

All boxes and packing materials should be kept in the event of visibly damaged and Concealed damage freight shipments. Damaged freight must be reported to the freight line within 15 days after delivery. After 15 days the freight line is no longer liable for the damage.

All goods not received properly or not in compliance with the contract should be documented and reported to the Purchasing Department as soon as possible so that the vendor can be notified and instructed as to corrective action.

Damaged goods should not be returned to the freight line, or the vendor, unless specifically requested to do so, and then only if a claim has been filed or if authorization has been given by the vendor and/or the Purchasing Department.

#### Documentation

All receiving documentation must be submitted to the Purchasing Department promptly by the user department. It is the policy of Harrison County to have all vendor invoices sent directly to the Purchasing Department.

Any warranty information should be copied to the Purchasing Department.

THE USER DEPARTMENT MUST ACKNOWLEDGE RECEIPT AND ACCEPTANCE OF DELIVERED GOODS WITHIN FIVE WORKING DAYS.



## Chapter 17 Debarment Verification Procedure

### Debarment Verification Procedure

#### Policy

To ensure that any and all purchases using Homeland Security Grant Funds are checked via the GSA Excluded Parties List System website [www.epls.gov](http://www.epls.gov) to verify that the vendor to be used by the County is not on the Excluded Parties List.

#### Scope

This procedure applies to all purchases using Homeland Security Grant Funds.

#### Responsibility

All purchasing department staff.

#### General

Whenever a Purchase Order is requested using Homeland Security Grant Funds the Vendor on the requisition must be verified for Debarment and checked via the GSA Excluded Parties List System website [www.epls.gov](http://www.epls.gov) to verify that the vendor to be used by they County is not on the excluded parties list.

All information retrieved at the [www.epls.gov](http://www.epls.gov) site on requested vendor including a "no data found" response will be printed out, scanned and attached to all requisitions for audit purposes. This print out will include vendor name, date and time per epls site print out for verification purposes.

Chapter 17 Created and Approved by Commissioner's Court January 29, 2013

## Chapter 18 Additional FEMA Requirements

### Additional FEMA Requirements

- a. The Uniform Rules authorize FEMA to require additional provisions for nonfederal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.
- c. Access to Records. All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, 1f XXVI (2013).
- d. The following provides a contract clause regarding access to records: "Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representative's access to construction or other work sites pertaining to the work being completed under the contract."

### DHS Seal, Logo, and Flags

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, 1f XXV (2013).
- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval."

### Compliance with Federal Law, Regulations, and Executive Orders

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: "This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives."

No Obligation by Federal Government

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

Program Fraud and False or Fraudulent Statements or Related Acts

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: "The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

Chapter 18 Created and Approved by Commissioner's Court July 17, 2023