



Purchasing Policy and Procedures Manual

Office of the Purchasing Agent

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- Background** This manual provides county departments enough information to make decisions necessary to request the purchase of goods and services needed to perform the functions of their departments effectively.
- Mission** The mission of the Potter County Purchasing Department is to:
- Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to county purchasing;
 - Provide equal access to all vendors participating through competitive acquisition of goods and services;
 - Conduct the procurement process in a manner that promotes and fosters public confidence in the integrity of the County procurement procedures; and
 - Protect the interests of Potter County taxpayers without regard to any undue influence or political pressures.
- Goals of Public Purchasing** Public purchasing has several goals including but not limited to:
- Purchasing the proper goods and services;
 - Obtaining the best possible price for the goods or services without sacrificing the quality needed;
 - Ensuring goods and services are available where and when needed and there is a continuing supply available; and
 - Guarding against the misappropriation of assets that have been acquired through the procurement process.
- Public purchasing must also ensure:
- **Responsible bidders are given a fair opportunity to compete for the County's business.** This can be accomplished by abiding by statutory requirements regarding competitive bids and proposals, and by the County's purchasing policy.
 - **Public funds are safeguarded.** Although the Purchasing Department does not usually designate the types of purchases to be made, it should attempt to see that the best value is received for the public dollar.
 - **Public spending is not used to enrich elected officials or County employees, or to confer favors.** To accomplish this, it is necessary to adopt and implement a code of ethics and train County employees to ensure they are aware of their responsibilities in the purchasing area.
- Potter County Commissioners Court has adopted a centralized purchasing structure that provides many benefits:
- It allows for the consolidation of smaller purchases by individual departments into larger purchases for the entire county, resulting in lower unit prices and savings;
 - Vendors and the business community have a single, central

link to the county procurement process to facilitate consistent communication and understanding;

- Purchasing Department personnel accumulate a solid foundation of knowledge and experience about purchasing, marketing trends, prices, and vendors. This expertise assists users to define their needs in order to better save the county money and promotes a more efficient procurement process; and
- Centralized expertise puts the purchasing processes on a professional footing and inspires public confidence in the actions of the County.

Additional Responsibilities

In addition to the above, the Purchasing Department

- Encourages and supports compliance with Texas purchasing laws;
- Works in conjunction with the Auditor and other County officials in the development of efficient financial processes;
- Promotes local business participation in County procurement processes;
- Provides the business community with a central link to County business;
- Proposes and administers Interlocal Purchasing Agreements and Cooperative Purchasing Agreements;
- Develops, implements, and manages a Fixed Asset Management System;
- Oversees and conducts Auctions of Surplus and Salvaged Property;
- Disposes of Seized and Abandoned Property; and
- Oversees and administers risk management procedures concerning property and equipment.

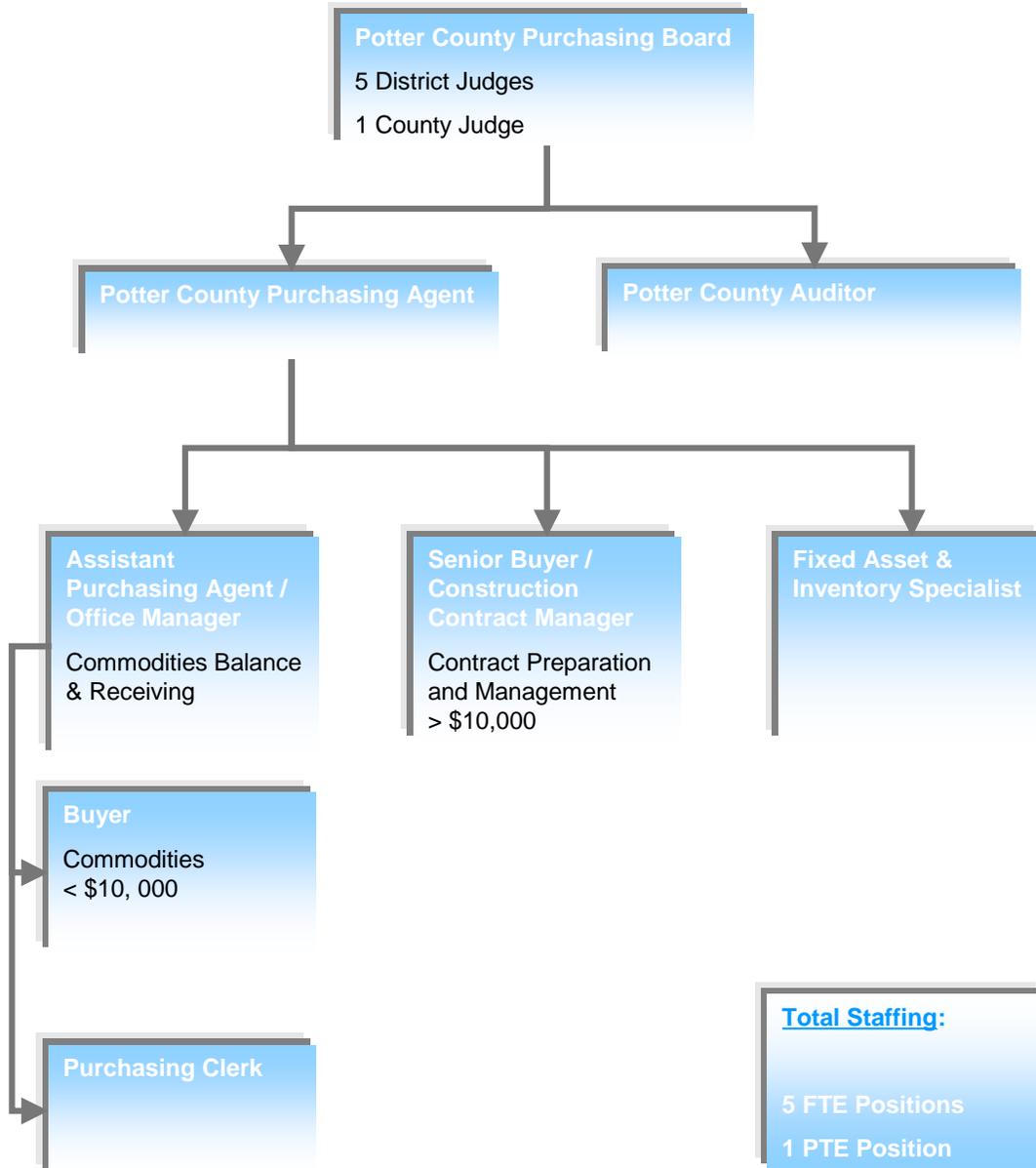
The Purchasing Department is committed to promoting effective, professional, and consistent procurement in Potter County, as well as championing the public perception that tax dollars are wisely spent.

This purchasing manual is not static. Purchasing procedures in Potter County will change as needed, evolving to incorporate technological advances and changes mandated by legislation.

The organization chart of the Purchasing Department is attached as Exhibit 1.

There are many terms that are used throughout this manual that pertain to purchasing activities. Definitions of key terms are found in Chapter 21.

Potter County Purchasing Office Organizational Chart



Chapter 2: Purchasing Authority and Application

Purchasing Laws	The Texas Legislature has enacted purchasing laws. It is the policy of Potter 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.
Application	The Purchasing Act (Texas Local Government Code Chapter 262) applies to all departments, all district, county, and precinct officials and employees. The Purchasing Agent must purchase or lease all goods and services, including maintenance and repair, for all departments. The Purchasing Agent must perform all purchasing for all officials, County department heads and employees.
Consequences of Non-Compliance	Making separate, sequential or component purchases to avoid the County Purchasing Act's requirement of competitive bidding, or otherwise violating the competitive bidding requirements of the County Purchasing Act, may constitute a class B misdemeanor. See Texas Local Government Code sections 262.034. Failure to comply with lawful purchasing requirements also may subject the county to a costly lawsuit with the end result of the purchase or contract being voided.
Effective Date	These policies and procedures are adopted by the County Purchasing Agent and approved by the Commissioners Court under the authority of the Texas Local Government Code, Chapter 262, and supersedes any previous policies and procedures regarding purchasing.
Precedents and Interpretation	<p>These policies and procedures shall become effective upon approval by the Commissioners Court.</p> <ol style="list-style-type: none">These policies and procedures shall be construed liberally to accomplish their purpose.If there is any conflict between the policies and procedures and a State law, or a rule adopted under a State law, the stricter of the two provisions prevails.The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include the other number as required.Headings and titles at the beginning of the various sections of these policies and procedures have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing these policies and procedures.If any provision of these policies and procedures or the application of them to any person or circumstances is held invalid, the validity of the remainder of these policies and procedures and the application of them to other persons and circumstances shall not be affected.In general, the Purchasing Agent interprets these policies and procedures but the Commissioners Court shall resolve any question about any interpretation of these policies and procedures when there is a conflict related to an area that is not within the statutory authority of the Purchasing Agent.

- g. Updates may be made to this policy and procedures manual without Commissioners' Court approval so as long as the general meaning of the policy or procedure is unchanged or to comply with new State and or Federal rules or regulations.

**Additional
Resources**

For additional information, the following are listed as references:

- The Model Procurement Manual for Texas Cities and Counties, March 2005, Carole Keeton Strayhorn, Texas Comptroller, <http://www.window.state.tx.us/lga/purchasing/96449.pdf>
- The State of Texas Contract Management Guide, Version 1.1 <http://www.tbpc.state.tx.us/stpurch/ContractManagementGuide11.pdf>
- The American Bar Association's 2000 Model Procurement Code for State and Local Governments

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

The following is adapted from the American Bar Association's 2000 Model Procurement Code for State and Local Governments:

Public employment is a public trust. It is the policy of Potter County to promote the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County. Such policy is implemented by prescribing essential standards of ethical conduct without unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to County procurement by responsible contractors. Moreover, public employees should conduct themselves in such a manner that fosters public confidence in the integrity of the Potter County procurement process.

To achieve the purpose of this policy, it is essential that those doing business with the Potter County Purchasing Office also observe the ethical standards prescribed in this policy.

Responsibility to County Employees shall avoid activities that compromise or give the perception of compromising the best interests of Potter County. Employees shall not knowingly use confidential proprietary information for actual or anticipated personal gain.

Conflict of Interest Employees shall avoid any activity that would create a conflict between their personal interests and the interest of Potter County. Conflicts exist in any relationship where the County's best interest may be different from the employee's best interests or the best interest of someone associated with the employee. Conflicts of interest include an employee participating in any way in any procurement in which:

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

Perception If conflicts of interest exist, the employee shall notify the Purchasing Agent in writing and remove him or herself from the County

procurement process.

Gratuities

Employees shall avoid the appearance of unethical or compromising practices in relationships, actions, and communications associated with County procurement.

Employees shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential contractors that might influence or appear to influence a purchasing decision. Generally, goods or services with a value of \$50 or less in the aggregate from a vendor during a year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision. If anyone is in doubt about whether a specific transaction complies with this policy, the person should disclose the transaction to the Purchasing Agent for a determination of compliance.

Confidential Information

Employees shall keep the proprietary information of vendors confidential. Employees shall keep County procurement information obtained from a solicitation confidential until after contract award if the solicitation provides for it to be kept secret.

Confidentiality Memorandum

- All information in the vendor's response is to be kept confidential.
- No discussion of the proposal is to occur with anyone outside of the proposal evaluation committee members with the exception of the designee's Department Head/Elected Official.
- Proposal responses are not to be reproduced and should be returned to the designated Purchasing Department staff after evaluation is completed.

The Purchasing Department is the sole point of communication for any questions from vendors that arise during the evaluation. All questions and requests for information should be referred to the Purchasing Department. There should not be any discussions between evaluation committee members and vendors during the evaluation and award process.

- Evaluation committee members must be familiar with and read the Potter County Purchasing Code of Ethics and agree to comply with its requirements including reporting any potential conflict of interest, undue influence from vendors, or attempted communications from vendors during the evaluation process.

Compliance with the requirements outlined in the Confidentiality Memorandum (exhibit 2) is crucial. If proprietary information of any vendor is compromised during the procurement process, all proposals may be rejected.



Purchasing Department

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Email: pages@co.potter.tx.us

TO: Proposal Evaluation Team Member

FROM: David Harder, CPSM, CPPB

DATE: December 27, 2013

SUBJECT: Request for Proposal (RFP) # 885-06, Widgets

In accordance with the County Purchasing Act, this project was issued as a competitive proposal, and, therefore, all information contained in the responses is to be kept **CONFIDENTIAL** until an award is approved by Commissioners Court.

Until that time, and due to the confidential nature of these proposals, **no discussion of these proposals shall occur with anyone outside the Proposal Evaluation Committee members.** Proposal documents may not be reproduced for any reason and must be returned to (buyer's name) after the evaluation is complete.

Certain information about the proposal, such as vendor name, is public information but may only be released by the Purchasing Office. **Please refer all questions or requests for information to the buyer.**

Please note that if any information about these proposals is compromised, it may be cause for rejection of all proposals.

I understand the above information and instructions and agree to not reveal any content of any proposal to anyone outside the evaluation committee membership. I will not discuss the deliberations of the committee with anyone outside the evaluation committee. I will report any vendor contact concerning this evaluation process or any undue influence on my evaluation of proposals to the responsible buyer.

Additionally, I have read the attached "Potter County Purchasing Code of Ethics", extracted from the Potter County Purchasing Policy and Procedures Manual, and agree to conduct myself in accordance with that code of ethics.

Signature of Evaluation Committee Member

Date

Attached: Potter County Purchasing Code of Ethics

Appointment The Potter County Commissioners Court and the District Judges have created a Purchasing Board to implement a centralized purchasing structure and have given the Purchasing Department that mission. The Purchasing Board, composed of five District Judges and the County Judge, appoints the Purchasing Agent for Potter County to a two-year term and approves the budget for the Purchasing Department, including the Purchasing Agent's salary.

Statutory Authority and Duties Texas Local Government Code, Chapter 262, Subchapter B & C outlines the following duties for purchasing agents:

- The Purchasing Agent shall purchase all goods required or used, and contract for all repairs to property used by the County or a department or employee, except purchases and contracts required by law to be made on competitive bid. **A person other than the Purchasing Agent may not purchase the goods or make the contract for repairs.**
- The Purchasing Agent shall supervise all purchases made on competitive bid and shall see that all purchased goods are delivered to the proper department in accordance with the purchase contract.
- A purchase made by the Purchasing Agent shall be paid for by a warrant drawn by the Auditor on funds in the County treasury in the manner provided by law. The 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.
- On July 1 of each year, the Purchasing Agent shall file with the Auditor and each member of the Purchasing Board an inventory of all property on hand and belonging to the County and each subdivision, officer, and employee. The Auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.
- Subject to Commissioners Court approval, to prevent unnecessary purchases, the Purchasing Agent shall recommend the transfer of County goods that are not needed or used, from one department or employee, to another department or employee requiring the goods or the use of the goods. The Purchasing Agent shall furnish the Auditor a list of transferred goods.
- Subject to Commissioners Court approval, the Purchasing Agent shall adopt the rules and procedures necessary to implement the agent's inventory duties.

- Rules and procedures adopted by the County Purchasing Agent include rules and procedures for persons to use county purchasing cards to pay for county purchases under the direction and supervision of the Purchasing Agent (Appendix 1).

Chapter 5: Purchasing Process, Roles and Responsibilities

Purchasing Process The general purchasing process as outlined in Exhibit 3 contains several stages with responsibilities that are often designated by statute. It begins with requirements planning and identification and culminates with the receipt of and payment for goods and services.

Exhibit 3:

Purchasing Process

Step	Performed By:
Identify requirements and obtain budget	User Department (Purchasing Department may assist)
Define/finalize requirements	Department and Purchasing
Submit electronic requisition outlining requirements to Purchasing	User Department
Solicit, advertise, and generate Purchase Orders and Contracts from requisition and send to vendor	Purchasing
Deliver good/service as outlined in contract and submit invoice	Vendor
Match packing slips and invoices to purchase orders and verify completeness against contract	Purchasing
Electronically receive item in GEMS system and submit original invoice to Auditor's Department	Purchasing
Match received amount with invoice and audit	Auditor
Submit payment claim to Commissioners Court for approval	Auditor
Approve payment of claim	Commissioners Court
Disburse payment of claim	County Treasurer
Transfer or Dispose of Assets at end of life cycle	Purchasing

User Do's and Don't's

Coordination among many County departments and Offices is necessary for the process to work smoothly. To avoid delays and comply with County policy and state law, user departments should remember the following:

- **Do not authorize the purchase of any goods or services.**
- **Do not purchase any goods or services for your own personal benefit.**
- **Do not obligate the purchase of goods that are delivered for use on a trial basis.**
- **Do not commit to acquire goods or services without an authorized purchase order.** Anyone obligating an expenditure of funds for goods or services before securing a purchase order may be held personally responsible for the payment.
- **Adhere to the County Purchasing Code of Ethics and avoid activities and behaviors that are unethical or create**

a conflict of interest or the perception of a conflict of interest. Examples of activities that are inappropriate include:

- Soliciting or accepting gratuities of any kind from present or potential contractors which might influence or appear to influence a purchasing decision;
 - Failing to disclose in writing to the Purchasing Agent a conflict of interest and not removing yourself from the procurement process when there is a conflict; and
 - Disclosing confidential proprietary information from solicitations to other vendors or using the information for personal gain.
- **Do not use purchasing strategies that violate the law to avoid competition.** A county officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Texas Local Government Code, Section 262.023, is committing a Class B misdemeanor according to Texas Local Government Code, section 262.034(a). Strategies that are prohibited by law include:
 - Purchasing a series of component parts that would normally be purchased as a whole (component purchases);
 - Purchasing items in a series of separate purchases that normally would be purchased as a single purchase (separate purchases); and
 - Purchasing over a period of time, which would normally be done as one purchase (sequential purchases).
 - **Do not violate or authorize the violation of the Purchasing Act.** Any person who knowingly violates or authorizes the violation of the Purchasing Act and any county or precinct person who fails to use the Purchasing Agent for purchases, including an agent or employee of the County or of a department of the County commits a criminal offense which is a misdemeanor. Each act in violation of the law is a separate offense.
 - **Ensure funding is available before submitting a requisition.** The law does not allow expenditures that exceed budgets. Purchasing does not process requisitions for which there is not adequate funding.
 - **Plan purchases to minimize the use of emergency and expedited purchases.** Rush purchases are generally more expensive and they delay other requisitions already in the system. Vendors may attempt to charge premium prices for goods and services when there is insufficient time allowed to explore alternative sources or options.
 - **Plan purchases to allow sufficient time to process purchase requests.** The Purchasing Department is committed to processing all requisitions within a reasonable

amount of time. In general, departments should allow 2–3 weeks for all non-contract purchases under \$50,000 and 6–8 weeks on all purchases requested over \$50,000 that are not covered by an existing contract. Contract requisitions are generally processed within one day of receipt.

- **Ensure that purchasing policies and procedures are understood before ordering.** Departments must assure that all employees responsible for making department purchase requests (“purchasing liaisons”) have read and understand the purchasing procedures in this manual. Departments should also ensure that liaisons attend any training provided by the Purchasing Department.
- **Coordinate with Purchasing on receipt of goods and services.** Since the County does not have centralized receiving, each department is responsible for individually receiving goods and services. Departments should contact the individual listed as the buyer on the purchase order to make Purchasing aware of vendor performance issues such as shortages, late delivery, or damaged merchandise. If the item received is a fixed asset that must be tracked and reported, departments should contact the Fixed Asset Manager in Purchasing to coordinate tagging.

Roles and Responsibilities

There are specific roles and responsibilities for both users and the Purchasing Department during the competitive procurement process. They protect the integrity of the process and provide fair and equal access to all vendors seeking to do business with Potter County. Exhibit 4 outlines the primary roles and responsibilities.

Purchasing Process Roles and Responsibilities

Process	User Department Role/Responsibility	Purchasing Department Role/Responsibility
Requirements Definition/ Specification Development	<ol style="list-style-type: none"> 1. Identifies what is needed, when it is needed, the quantity needed and where it is needed and works with Purchasing Department to document need in writing a specification. 2. Ensures funding (budget) is available to support need. 3. Sends specification and requisition with funding to Purchasing Department. 4. Works with Purchasing Department to develop evaluation criteria/formats (as applicable). 	<ol style="list-style-type: none"> 1. Consults with User Department in development of specification and procurement process to be used. 2. Reviews specification to ensure that it is descriptive and specific but does not prevent competitive bidding of comparable goods 3. Works with user department to develop evaluation criteria/formats (as applicable) 4. Prepares agenda item for Commissioners Court (if applicable)
Solicitation	<ol style="list-style-type: none"> 1. Reviews solicitation documents before issuance to ensure department needs are met. 2. Provides Purchasing Department with a list of potential vendors that can meet the solicitation requirements. 3. Provides technical clarifications to Purchasing Department if vendor questions arise 4. Supports pre-solicitation conferences (as applicable) 	<ol style="list-style-type: none"> 1. Develops solicitation documents based on specification and sends to user department for review before final issuance. 2. Issues solicitation to vendors on the vendor list (and those identified by user department). 3. Advertises solicitation in accordance with State law. 4. Conducts pre-solicitation conferences (as applicable). 5. Provides answers or clarifications to vendors before solicitation closes. 6. Receives and logs vendor responses 7. Prepares responses for evaluation and sends to user department.
Evaluation and Negotiation (as applicable)	<ol style="list-style-type: none"> 1. Evaluators from Department sign confidentiality memorandum and send to Purchasing Department (as applicable). 2. Evaluates response based on established evaluation criteria and formats. 3. Completes evaluation and submits recommendation to Purchasing Department. 4. Works with Purchasing Department to develop negotiation strategy (as applicable). 5. Participates as member of 	<ol style="list-style-type: none"> 1. Issues confidentiality memorandum to all evaluators before evaluation commences (as applicable). 2. Supervises evaluation process to ensure consistent and fair application of evaluation criteria. 3. Acts as point of contact for evaluator requests and communications to vendors for additional information. 4. Compiles individual evaluation results and works with users to develop recommendation for award and prepares contract

Process	User Department Role/Responsibility	Purchasing Department Role/Responsibility
	<p>negotiating team to negotiate Best and Final Offers (BAFOs) (as applicable).</p> <ol style="list-style-type: none"> 6. Works with Purchasing Department to co-develop final recommendation for award. 7. Provides information to Purchasing Department (memorandum) to support contract award agenda item preparation and drafting. 	<p>award agenda item for Commissioners Court or</p> <ol style="list-style-type: none"> 5. Works with user department to develop negotiation strategy (as applicable), 6. Leads negotiating team to negotiate BAFOs (if applicable). 7. Receives BAFOs and co-develops final recommendation for award (if applicable) and 8. Prepares contract award agenda request for Commissioners Court.
Contract Modifications	<ol style="list-style-type: none"> 1. Request modifications in writing to Purchasing Department 2. Reviews draft and final modification to ensure it meets department needs 	<ol style="list-style-type: none"> 1. Evaluates modification request and works with user department to develop modifications 2. Coordinates with vendor and user department to develop draft modifications 3. Works with County Attorney to review and finalize modifications 4. Obtains appropriate signatures (vendor, attorney, etc.) 5. Purchasing Agent approves modifications or develops Commissioners Court agenda item for approval depending on type and amount of modification
Contract Performance Monitoring	<ol style="list-style-type: none"> 1. Receives copy of contract and monitors vendor performance and delivery 2. Notifies Purchasing Office of non-performance and provides written documentation outlining details of non-performance (dates, description of problem, etc.) 3. Works with Purchasing Office to develop acceptable corrective actions (as applicable) 	<ol style="list-style-type: none"> 1. Maintains complete contract file with supporting documentation during term of contract 2. Works with vendor to resolve performance issues as identified by user department 3. Develops corrective actions and timetables for completion to resolve performance issues and documents in contract file (as applicable) 4. Works with user department and County Attorney to terminate contract when necessary because of non-performance 5. Prepares contract termination agenda item for Commissioners Court action (if required)

Vendor Owing Taxes Pursuant to Texas Local Government Code 262.0267, Potter County Commissioner Court has adopted a policy which requires that vendors taxes be current as of the date bids/proposals are due. Bidders with delinquent taxes on the due date will not be eligible for award. Whether or not a vendor's taxes are delinquent will be determined by an independent review of the Tax Office records. Vendors who believe a delinquency is reflected in error must contact the Potter County Tax Office to correct any errors or discrepancies prior to submitting their bid in order to ensure that their bid will be considered. Tax records are available online at the Potter Randall Appraisal District website – www.prad.org. Prior to submitting a bid, vendors are encouraged to visit the Potter Randal Appraisal District website, set up a portfolio of their accounts and make their own initial determination of the status of their tax accounts. Furthermore, if during the performance of a contract, a vendor's taxes become delinquent, Potter County reserves the right to provide notice to the Auditor or Treasurer pursuant to Texas Local Government Code §154.045.

County Auditor Funds Verification According to Texas Local Government Code, sections 113.064 and 113.065, the County Auditor shall:

- Examine and approve each claim, bill and account against the county, and
- Audit and approve only those claims that have been incurred as provided by law, including the laws governing county budgeting and purchasing. Thus, a payment for a purchase that is not included in the county budget, or for which funds are not available, may be disapproved by the County Auditor.

IT Review of Data Processing Equipment The Information and Technology Department (IT) reviews all purchase requests made by departments for software, hardware and other data processing equipment and provides a written assessment to the requesting department, Purchasing Department, and Commissioners Court before court approval. This procedure is to ensure compatibility and standardization. IT may provide the Purchasing Agent with a list of the goods and services that have been pre-approved and need no additional review. To purchase any other data processing goods or services, the User Department must obtain IT approval.

Facilities Maintenance Review When new equipment is being acquired, the Facilities Maintenance Department provides a statement about whether adequate space and other facilities resources necessary for the proper operation of the equipment are available in a place accessible to the department requesting it.

Sheriff's Review For acquisition of security equipment and during the planning stages of security projects, the Sheriff's Department should be consulted.

Records Management Review

Mailing supplies, record keeping equipment and record keeping software should be coordinated with the Records Management Department.

Recycling Policy

Potter County supports the purchase of recycled materials, both in products that are reduced to raw material and remade into material that can be used for other purposes, as well as items that can be rebuilt or remanufactured and placed back into service for continuous use. In an effort to support recycling, the Purchasing Agent is authorized to purchase recycled material if the price differential between available non-recycled material and recycled material is within ten percent and there is an insignificant impact on the overall budget.

The Purchasing Department shall:

- Provide user departments with information to facilitate their purchase of designated products and inform them of their responsibilities;
- Revise minimum content standards as necessary to ensure that designated products contain the maximum practical amount of recovered material and are consistent with guidelines and regulations promulgated by the United States Environmental Protection Agency, and other Federal and State agencies; and
- Ensure that environmentally preferable products are designated whenever practicable.

Contractors performing services for County are required to comply with all applicable waste management law. Potter County prefers that all printed material, produced by a contractor in the performance of a contract, should be printed on recycled paper, labeled as printed on recycled paper with multiple pages of text printed front and back whenever practicable.

Risk Management Coverage

When departments sustain loss or damage to goods or buildings, and funding for replacement or repair is coordinated through the Purchasing department, the actual purchase still is processed by the Purchasing Department. Additionally, an Inventory Form is completed by the Fixed Asset Manager when the inventory files are updated if applicable.

Vehicle accidents occurring during normal business hours M-F, 8-5, must be reported within 4 hours to the Purchasing Agent. After normal business hours the accident must be reported immediately on the next business day.

Vehicle accidents occurring within the city limits must have a city police report; accidents occurring outside of the city limits require a Department of Public Safety or county sheriff's department report. Depending on location, either a city police or a DPS or sheriff's

department report is required for insurance consideration. Within ten days of the accident, forward to the Purchasing Agent the following information:

1. Any Police, DPS or Sheriff's Department Reports
2. Any Departmental incident reports with driver's statement
3. Photographs of vehicles and video of accident if available

After Hours Emergency Purchases

If there is a declaration of a local state of disaster, the County Judge is the authority to approve purchases. When purchases are necessary because any other emergency situation exists, the Purchasing Agent must be contacted to ensure compliance with the Purchasing Act. Emergency, as used in the Purchasing Act and this chapter, is an urgent unforeseeable need to make a purchase that does not result from a local state of disaster.

Departments that deal with emergency situations (e.g., Road and Bridge, Facilities and Sheriff) must have written internal procedures for emergency purchases less than \$50,000 that occur after regular work hours. Those procedures must be approved in advance by the Purchasing Agent. A sample procedure is provided in exhibit #5.

The internal department procedure should require that department employees contact their financial officer or other designated person for approval. On the first working day after the purchase, the department must enter a purchase requisition into the GEMS system and provide written documentation to the Purchasing Agent. If the Purchasing Agent has not approved procedures for emergency purchases for a department, the department must wait until the next working day to make the purchase.

If the amount exceeds \$50,000, the Commissioners Court by order must grant the exemption from formal competitive bidding even in an emergency situation. Refer to page 26 for emergency requisitions.

Sample Departmental After Hour Emergency Purchasing Procedure

(DEPARTMENT NAME)

Departmental Procedure for After Hour Emergency Purchases

The Purchasing Agent must purchase or lease **all** goods and services, including maintenance and repair, for all departments. The Purchasing Agent must perform all purchasing for all officials, County department heads and employees per Texas Local Government Code, Chapter 262.

Emergency Purchase: An urgent unforeseeable need to make a purchase that does not result from a local state of disaster.

To qualify as an emergency purchase **all** of the following criteria must be met:

- 1) The Purchasing Department is not open to issue a purchase order. The need is immediate and can not wait for the next business day
- 2) Does not qualify as a purchasing card purchase or you do not have a county purchasing card.
- 3) Department Head approval (optional per department)

Actions to follow the purchase:

During the first four hours of next business day-

- 1) Enter requisition in Gems or fax a hand written requisition to Purchasing making a note on the requisition which justifies the emergency and note that the purchase has already been made.
- 2) Call the Purchasing Department, 349-4815, to notify of the purchase.
- 3) Follow up on the Gems approval process to ensure the electronic requisition is expedited.
- 4) Send invoice to Purchasing Department with requisition number.

Consequences of non-compliance: Employee may be held personally responsible for the expense incurred. Employee is responsible to ensure the purchase is tax exempt.

Emergency Policy approved by:

Purchasing Agent: _____ Date: _____

Department Head/Elected Official: _____ Date: _____

Interlocal Agreements All interlocal agreements that involve purchase of goods, services, repair, or maintenance agreements must be approved by the Purchasing Agent. The Purchasing Agent will submit the agreement to Commissioners Court for approval. Any purchase from an interlocal agreement shall be referenced on the Purchase Order.

Bonding Requirements Bonds for construction contracts are dealt with in Chapter 14. For all other contracts, the Purchasing Agent, with the approval of the Commissioners Court, determines whether a bond of any sort is required.

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

Bid bonds may be requested for the construction of public works, or for a contract exceeding \$100,000. The county may require the bidder to furnish a good and sufficient bid bond in the amount of 5% of the total contract price. A surety company authorized to do business in Texas must execute the bond.

Performance bonds are not usually required for contracts that are less than \$50,000, but may be required at the Purchasing Agent's discretion, subject to approval by the Commissioners Court. Performance Bonds are not required from any bidder or proponent whose rates are subject to regulation by a state agency. If the Purchasing Agent decides that a performance bond is required for a particular contract, the solicitation states a performance bond in the full amount of the contract price is required and that it must be executed by a surety company authorized to do business in Texas before the contractor commences work and within 30 days after the notice of contract award is sent to the contractor.

In a contract for the purchase of earth moving, material handling, road maintenance or construction equipment, the Commissioners Court may require the contractor to furnish a bond to the County to cover the repurchase costs of the equipment.

A **payment bond** shall be required on all public works projects exceeding \$25,000.

Consideration of Safety Records If the RFB/RFP states that the safety record may be considered in determining the responsibility of the bidder and includes the Safety Record Questionnaire in its Appendix, Potter County takes into account the bidder's safety record in determining the responsible bidder. The safety record includes compliance with requirements for the safety of the environment. In relation to the safety record, "bidder" includes not only the bidder; but also the firm, corporation partnership or institution represented by the bidder; or anyone acting for such a firm, corporation, partnership, or institution.

The definition and criteria for determining the safety record of a bidder are as follows:

1. If the bidder reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the past three (3) years, Potter County will, at its discretion, determine whether to disqualify the bidder.
2. If the bidder reveals more than one (1) case in which bidder has received a citation from an environmental protection agency for violations within the past five (5) years, Potter County will, at its discretion, determine whether to disqualify the bidder.
Environmental Protection Agencies include the U.S. Army Corps of Engineer (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), and its past associated agency, the Texas Natural Resource Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30 Texas Administrative Code, Chapter 60.2 (c) (1) and (2).
3. If the bidder reveals that the bidder has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, Potter County will determine whether to disqualify the bidder.

Vendor List The Purchasing Department maintains a list of vendors who have requested that they be sent notices of advertised solicitations. The vendor list is categorized by the commodity and sub-commodity codes for the goods and services that the vendor has indicated it is capable of providing. The Purchasing Department utilizes a third party vendor for maintenance of the vendor list and publication of solicitations. Vendors interested in participating in County solicitations may register with <https://www.publicpurchase.com/gems/register/vendor/register>.

As a courtesy to vendors and as a means of encouraging competition, notification of each solicitation is provided to appropriate vendors. Notices of solicitations are sent by a variety of methods including email and facsimile transmission whenever the vendor has provided

appropriate contact information. The Purchasing Department also advertises solicitations on the County Purchasing website at http://www.co.potter.tx.us/default.aspx?Potter_County/Purchasing.BidOpportunities.

Prepayments and Advances Generally, prepayment is not authorized for any purchase of supplies, materials, equipment or services. Exceptions are:

- Library materials
- Merchandise purchased from federal and state agencies
- Realty rental
- Subscriptions
- Rental fee for meeting rooms
- Annual maintenance agreements
- Tuition to an institution of higher education
- Training and Travel expenses per budget rules
- Other prepayments as authorized by the County Auditor

Purchasing Card Policy The Potter County Commissioners Court has approved the use of a Texas Building and Procurement Commission State approved Procurement Card program for small dollar purchases to increase efficiencies and expedite purchases and payment. A copy of the approved Policy and Procedures Manual is attached in Appendix 1.

Chapter 7: 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.
- Purpose** The department's purchase requisition authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services. This automated form is for internal use and cannot be used by a department to order materials directly from a vendor.
- Policy** Potter County uses an automated requisitioning system, commonly referred to as the GEMS system. Based on pre-established budget line items, the user department enters purchase requisitions into the GEMS system. Adequate budget funds must be available in the departmental line items before the Purchasing Department can purchase the requested goods and services. Manual requisitions and purchase orders are not acceptable, unless the Purchasing Agent has approved the manual process in writing.

The only exceptions to automated purchase orders are the Requests of Payment processed directly by the Auditor's Department for the following goods or services:

- Utilities
- Attorney's Voucher
- Court Reporters
- Investigators
- Court Related Expenditures
- Routine Duty Travel
- Long Distance Service
- Telephone Trunk Lines
- Telephone Related Equipment
- Travel, Meals, and Lodging
- Appropriations to Other Governments
- Training and Seminars
- Quantum Merit
- Risk Management Claims
- Copier Lease
- Body Transport and Storage
- Autopsies
- Psychiatric Evaluations
- Juvenile Medical
- Dues
- Subscriptions
- Recording Fees
- Witness Reimbursement
- Grand Jury Related
- License and Registration
- State Inspection
- Purchases not required by statute to be purchased by the purchasing department

- Procedure** Purchase requisitions should fully describe what to buy, when it is required, and where the goods are to be delivered or the services that are to be performed. For items on annual contract, the description should include the bid number, item number, price, and exact description stated on the bid award. Copies of the annual bid awards are furnished to the user departments. For non-contract or "open market" requisition, the user department needs to enter a complete description of the items needed. Exhibit 5 identifies the information needed to process open market requisitions expeditiously. The information should

be researched and obtained **before** the user department enters a requisition in the GEMS system.

After the Purchasing Department receives a purchase requisition, it determines the appropriate purchasing method 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.

Specific instructions on entering purchase requisitions into the automated GEMS system are not covered in this manual. The user department can contact the Purchasing Department for training.

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 five types: contract, office supply, routine, expedited, and emergency.

- **Contract Requisitions** - Normal purchases of items ordered from existing contracts. Contract requisitions generally require one working day to process.
- **Office Supply Requisitions** - Routine office supplies are ordered by individual departments using the Simple Order System on the Intranet page or Office Depot online. These orders are generally processed same day with next day delivery status.
- **Routine** – Normal purchases that are not under contract (i.e. “open market” requisitions) under \$50,000. These generally require 3 to 10 working days to process.
- **Expedited** – Open market purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases generally do not qualify as emergency purchases and are subject to all applicable bidding requirements. Expedited purchase requisitions require 1 to 3 working days to process. 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.** There are two types of expedited purchase requisitions:
 - **Walk Through** – Open market purchases for goods or services needed within three working days to avoid work interruption, loss of service or significant added cost of operations. The user department should hand carry all paperwork to the Purchasing Department immediately after entering the purchase requisition into the GEMS system.
 - **Work Stoppage** – Open market purchases for goods or services needed immediately to prevent work stoppage due to unanticipated conditions. The user department should telephone or email the Purchasing Department immediately upon entering the purchase requisition into the GEMS system and should also provide written documentation of the

existence of a work stoppage for the contract file (written comments in the requisition or email justification from Department Head or designee are acceptable documentation). The Purchasing Department instructs the user department on what action to take.

- **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 (TEX. LOC. GOV'T CODE., section 262.024 (a) (1)(2)(3)). All emergency exemption orders must be processed through the Purchasing Department. Emergency purchases with a total cost exceeding \$50,000 must be exempted from the requirements of the Purchasing Act by order of Commissioners Court. The Purchasing Agent submits the order and agenda request for Commissioners Court approval for emergency purchases exceeding \$50,000. Emergency purchases with a total cost under \$50,000 are handled like an expedited purchase requisition. The user department should immediately contact the Purchasing Agent so that proper action can be initiated immediately. Refer to page 21 for after-hours emergency purchases.

Note: Cycle time to process a requisition refers to the time between when a purchase requisition is received in the Purchasing Department 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 and similar actions associated with a purchase that are not processed by the Purchasing Department.

Reminder: It is the department's responsibility to follow their requisition to make sure it is released from the interdepartmental approval queue and Auditor's approval queue. Time the requisition may spend in the approval queue is not included in cycle time.

Open Market Requisition Checklist

Step	Reference Source:
<p>Find the desired item(s) and obtain the following information:</p> <ul style="list-style-type: none"> ▪ Manufacturer Name (e.g. Dell) ▪ Model Number (e.g. Pentium series II, model) ▪ Stock Number (e.g.135867) ▪ Unit of measure (e.g. each) ▪ Unit price, quantity, and total price ▪ Item description (complete description with as much detail as possible) 	<p>Vendor catalog, Internet research</p> <p>Helpful hint: copy the model description information from the source and either type it in the requisition or forward via interoffice mail or email to purchasing. Also, identify where you got the information (e.g. General Office Plus catalog p.22 or online at www.generalofficeplus.com, item xxx)</p>
<p>Obtain the full description for the item(s) being purchased</p>	<p>Example of full description (file cabinet): File Cabinet, Vertical, 2 Drawer, Letter Size, Stock Number, Dimensions 27 3/4"H x 17 11/16"W x 25"D, Color: Steel Gray Shipping Weight: 320 Lb. MFG: FireKing P/N FK25 (seen online at generalofficeplus.com)</p>
<p>Check the vendor name to see if the vendor exists in the GEMS system and verify the vendor number. If the vendor does not exist in the GEMS system, obtain the following to enter into requisition comments:</p> <ul style="list-style-type: none"> ▪ Vendor name ▪ Vendor address ▪ Vendor telephone number ▪ Vendor point of contact (who you talked with to get product information) 	<p>GEMS Purchasing module (requisition function)</p>
<p>Identify shipping and delivery information including:</p> <ul style="list-style-type: none"> ▪ Date required ▪ Shipping (determine if it is included in price or is a separate item) ▪ Department point of contact to whom item will be delivered ▪ The "Ship to" location ▪ Any specific delivery instructions (location, time of day etc.) ▪ Any special options available, but not part of description (color, fabric, etc.) 	<p>GEMS Purchasing module (requisition function)</p>

Policy For open market 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 user departments. The Purchasing Agent is authorized to select the vendor and to perform 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. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Considerations In selecting the exact goods or services requested by the user departments, the Purchasing Agent considers the following:

- The stated needs of the user department and whether the selected goods or services meet those needs;
- Available information about sources and prices of the goods and services;
- The delivery requirements of the vendor and the user department; and
- Any other information that a reasonable and prudent purchasing professional would consider in all the circumstances of the purchase.

Procedures The user department submits an open market purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required.

Based on the information in the purchase requisition, wherever reasonable and practical the Purchasing Agent or Purchasing Department:

- Attempts to obtain at least three quotations;
- Documents in writing the vendors notified and prices offered;
- Selects the vendor who makes the best offer taking into account not only price but also the urgency of the user departmental need and the speed of delivery and the quality of the goods and services offered; and,
- Orders these goods and services from the vendor who provides the quality, cost, and delivery schedule most consistent with the best interest of the County.

If quality and delivery terms meet County needs, the vendor who provides the lowest price is selected. If the vendor offering the lowest price is not used, a notation is made in the quotation documentation to indicate the reason another vendor is selected.

The Purchasing Agent may deviate from the policy for purchases under \$50,000 if it is in Potter County's best interest and if it facilitates specific County operations. A purchase of this type will be communicated to the department head or his designee.

**Commodity
Purchase
Limits**

Important: 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 is established. Cumulative purchases include countywide purchases, and are not limited to departmental requirements.
(e.g. fuel, tires, office supplies)

**Violations and
Penalties**

Intentionally separating purchases or invoices to avoid the \$50,000 formal competitive bidding limit is a violation of the Purchasing Act.

Definition A specification is a concise description of goods or services that user departments seek to buy, and the requirements the vendor must meet 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 and services to be purchased.

Purpose The primary purposes of any specification is to provide vendors with firm criteria about a minimum standard acceptable for goods or services by providing reasonable tests and inspections to determine their acceptability and to provide purchasing personnel with clear guidelines from which to purchase. As a result, the specification also:

- Promotes competitive bidding, and
- Provides a means to make an equitable award to the lowest and best bid from a responsible bidder.

Preparation In writing specifications, user departments are encouraged to obtain an existing specification before starting to write a new one. The existing specification can provide ideas and examples that can be customized for Potter County purposes. The user department should contact the Purchasing Department for assistance in obtaining existing specifications to facilitate the specification development process.

There are numerous sources for specifications. These include other governments, professional trade associations, professional purchasing associations and user knowledge. Some specification libraries that are available include:

- Texas Specification Library located at the Texas Building and Procurement Commission website:
http://www.tbpc.state.tx.us/spec_lib/index.html
- General Services Administration, Federal Supply Service – Specifications Section found at www.gsa.gov
- Texas Department of Transportation Standard Specification Index located at
http://www.dot.state.tx.us/gsd/purchasing/tssi_alpha.htm
- Texas County Purchasing Association. Contact Purchasing for assistance because this is available to members only.

The user department, occupant department, or an outside agency may propose specifications. **To ensure compliance with legal purchasing requirements, the Purchasing Department has final acceptance of the specifications, except those for construction projects.** This ensures proper quality control and avoids the proliferation of conflicting specifications in the different County departments. The Purchasing Department may submit any purchases

that were not approved in the budget process to Commissioners Court before specifications are prepared and advertised so the Commissioners Court may determine whether to transfer funds or amend the budget to make the purchase.

To facilitate specification development and avoid duplication of their efforts, user departments should submit their specifications in electronic format to the Purchasing Department.

- Characteristics** An effective specification has the following characteristics:
- **Simple:** Avoids unnecessary detail, but is complete enough to ensure that purchased goods and services satisfy their intended purpose.
 - **Clear:**
 - Uses terminology that is understandable to the user department and vendors.
 - Eliminates confusion by using correct spelling and appropriate sentence structure.
 - Avoids the use of jargon and “legalese”.
 - **Accurate:** Uses units of measure that are compatible with industry standards, identifies all quantities, and describes packing requirements.
 - **Competitive:** Identifies at least two commercially available brands, makes, or models (whenever possible) that satisfy the intended purpose. Avoids unneeded “extras” that could reduce or eliminate competition and increase costs.
 - **Flexible:**
 - Avoids situations that prevent the acceptance of a response that could offer greater performance for fewer dollars.
 - Uses approximate values that are within a 10% range for the dimensions, weight, speed, etc. (whenever possible) if these values can satisfy the intended purpose.

- Types** The Purchasing Department uses a number of specification types:
- **Design** - Details description of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom produced items and many services.
 - **Performance** - Details required performance parameters such as required power, strength of material, test methods, standards of acceptability, and recommended practices. Performance specifications are usually used for capital equipment purchases.

- **Brand Name or Equal** - Lists goods or services by brand name, model, and other identifying specifics, except that products with performance equivalent to the characteristics of the named brand are specified as acceptable. Other manufacturers may provide a nearly identical product under another brand name. **The Purchasing Department uses this method only if there is sound justification. The burden of justification rests with the user department.**

- **Industry Standard** - States an industry standard that is identical, regardless of manufacturer that results in acquisition of goods of uniform quality. The UL standard for electrical products is an example of an industry standard.

Definition and Use

There are two types of solicited purchases: 1.) competitive bidding and 2.) competitive proposals. Competitive bidding means letting available vendors compete with each other to provide goods or services (Exhibit 6). Texas courts define this concept as follows:

"Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items 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 items and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.—Dallas 1951, no writ).

Purpose of Competitive Bidding

Texas courts also state:

"The purpose of competitive bidding 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." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.—Dallas 1951, no writ).

The first purpose of competitive bidding is to ensure the best possible value is received. Competitive biddings also increase the likelihood that public monies are spent properly, legally, and for public projects only.

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.

Competitive Bidding: The term "Formal Competitive Bidding" used in this manual is generally used in public purchasing when the bidding process complies with Texas Local Government Code, section 262.023, which requires approval by the Commissioners Court.

"Sealed" bids are solicited through a Request for Bid (RFB) for contracts expecting to exceed \$50,000. The RFB is the document used to solicit bids from vendors in response to the County's specifications and contractual terms and conditions. The Purchasing Department along with the Official or Department Head suggest award recommendations to the Commissioners Court. The awarded RFB with the Notice of Contract Award letter signed by the Purchasing Agent forms the contract between Potter County and the vendor. **Competitive bids are not negotiated.** With few exceptions, price is the sole determinant factor if the vendor's product or services meet the requirements of the specification.

The RFB method is the most preferred method of procuring goods and supplies and non-personal services such as pest-control services. It is used when the requirement can be definitively described, is readily available, and is an off-the-shelf kind of requirement.

Competitive proposals: The term "Formal Competitive Proposal" used in this manual is generally used in public purchasing when the solicitation process complies with Texas Local Government Code, section 262.030, which requires approval by the Commissioners Court.

Competitive proposals are solicited through a sealed Request for Proposals (RFP) process. Vendors submit responses to the RFP for consideration. The RFP solicits proposals from vendors in response to the County's requirements and contractual terms and conditions. A formal contract, reviewed by the County Attorney's Office, must be approved by the Commissioners Court.

Formal "sealed" proposals can only be used to procure **insurance, high technology goods and services, landscape maintenance, travel management, recycling or in the case the purchasing agent determines that it is in the best interest of the County to make a request for proposals for any service or good.**

"High technology" goods or services mean 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.

While the competitive proposal (RFP) process is similar to the competitive bidding (RFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated procurement. Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors must be specified in the RFP and considered in recommending award. Also, the proposals are received, but are not opened publicly. Proposal contents are not disclosed until after the contract is awarded. Proposal contents that are trademarked or proprietary may remain confidential pursuant to the Texas Public Information Act (Chapter 552, Texas Government Code).

Procedures

In Potter County, competitive solicited procurements which call for approval by Commissioners Court due to an expenditure in excess of \$50,000 is required to comply with the requirements of Subchapter C

of the Purchasing Act and, with few exceptions, are accomplished by the following process. Throughout this chapter, “bids” are vendor responses in the RFB process and “proposals” are vendor responses in the RFP process. Unless specifically noted, the procedures apply to both the RFB and RFP.

Defining the Need

RFB: When the need for a good or service costing more than \$50,000 is identified, the user department should immediately contact the Purchasing Department for assistance in developing the specifications. The specification should be comprehensive and broadly defined to allow for maximum competition.

RFP: When the need for the goods or services (greater than \$50,000) is identified, the user department should immediately contact the Purchasing Department for assistance in defining the requirements to be used for the solicitation. The user department is responsible for submitting a Statement of Work (SOW) or Technical Requirements, which functionally defines its needs and requirements. Purchasing Department staff ensure that the SOW or Technical Requirement is quantified and structured to:

- Secure the best economic advantage utilizing best value;
- State the needs clearly;
- Be contractually sound;
- Be unbiased toward vendors;
- Encourage innovative solutions to the requirement described; and
- Permit free and open competition to the maximum extent reasonably possible.

Notice

Once the Purchasing Department has finalized the specification or requirements with the user department, the Purchasing Department prepares the solicitation for issuance and publishes a notice of the proposed purchase that complies with the requirements in Texas Local Government Code, section 262.025.

According to section 262.025, 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 solicitation opening. To ensure vendors sufficient time to complete and return the solicitation, Purchasing generally advertises for 17 days. If necessary, advertising time can be extended. The notice must include:

- The name and telephone number of the purchasing agent;
- The county website address, if any;
- The specifications (requirements) describing the goods and services to be purchased, or a statement of where the specifications (requirements) may be obtained;
- The time and place for receiving and opening solicitations and

the name and position of the employee to whom the solicitations are sent;

- Whether the vendor should use lump-sum or unit pricing;
- The type of bond required of the vendor; and
- The method of payment by the County.

Special Considerations

RFB: If unit pricing is required, the County must specify approximate quantities estimated on the best available information. The Purchasing Agent explains how the lowest price is calculated in the RFB.

RFP:

- The Purchasing Department publishes a notice of the proposed purchase unless Commissioners Court approval of the RFP is required.
- The Commissioners Court must approve advertising for any RFP for which there is not adequate funding approved in the budget and for which Auditor has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.
- If the RFP is for high technology goods and services, Information Technology must review it before it is advertised.
- Record Management may also review any technology purchases related to records management.
- For all other purchases, the Commissioners Court delegates its authority to approve the requirements to the Purchasing Agent.

Amendment of Solicitation

The Commissioners Court authorizes the Purchasing Agent to extend the proposal opening date on the notice of a solicitation if an error is discovered, or the nature of the goods or services requires an extension. The Purchasing Agent may amend a solicitation:

- If inquiries about the meaning indicate the need for an amendment to clarify its original intent or to correct clerical errors;
- If the changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- If the amendment does not change the general scope.

There should be at least three days between the date of the amendment and the opening date in the notice. If there are less than three days, the opening date is extended to allow for a minimum of three days between the date of the amendment and the opening date in the amendment.

Pre-Bid (Proposal) Conference

Texas Local Government Code, section 262.0256 allows counties to require potential vendors to attend a mandatory pre-bid (pre-proposal) conference to discuss contract requirements and answer vendor questions. The Purchasing Agent works with the user

department to determine if a pre-bid (pre-proposal) conference is necessary and whether attendance is mandatory or optional. Purchasing staff manages any pre-bid (pre-proposal) conference and requests that the user department makes staff available to answer questions at the conference.

Receipt of Competitive Solicitations

To ensure the identification, security, and confidentiality of responses to solicitations, the following procedures are adhered to:

- The Purchasing Agent receives all responses as specified by the solicitation document.
- **Solicitations are not received after the opening time on the day of response opening. Should a response arrive by mail prior to the specified time delivery will be refused.** All responses received and not refused after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response was received after the due date and time.
- The Purchasing Department records the time and date the response was submitted.
- After a response is received, the Purchasing Department provides a secure place to hold it until the opening date. The responses are only received sealed and remain sealed until the Purchasing Department opens them in a public forum on the advertised date and time.

On occasion, responses that are received in the mail or by other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the response (especially the price for a bid) were not reviewed and the response is re-sealed by that employee of the Purchasing Department, and the incident is documented.

The above process is undertaken to preclude any perception of favoritism, revealing prices or response information. Publicly receiving sealed responses and recording the submission of requested responses is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of solicitations.

Public Opening of Solicitations

RFB: The Purchasing Agent publicly opens and documents the bids on the date, time, and place specified in the notice. Preliminary tabulations are provided to the public upon request.

RFP: The Purchasing Agent publicly opens and documents sealed proposals on the date, time, and place specified in the notice. Only the names of vendors submitting proposals are announced.

Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public

inspection after the contract is awarded, except for trade secrets and confidential proprietary information contained in them. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality Memorandum

RFP: As fully described in Chapter 3 of this manual, the Purchasing Department uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the competitive process to keep information confidential **until the Commissioners Court approves an award**. These requirements also include disclosure of any potential conflict of interest, or any attempted communication by the proponent to evaluation committee members during evaluation.

Evaluation

RFB: The Purchasing Department evaluates all bids with assistance from the user department and recommends the lowest responsible bid to the Commissioners Court for award. The Purchasing Department evaluates bids based on:

- The relative price, including the cost of repair and maintenance if heavy equipment is the subject of the bid or the cost of delivery and hauling if road construction is involved;
- The compliance of goods and services with specifications; and
- The vendor's past performance, the responsibility of the vendor, including the vendor's financial and practical ability to perform the contract, and the vendor's safety record if the IFB states that it is to be considered.

The Purchasing Department forwards copies of the bids and the Bid Tabulation Package to the Official or Department Head for completion and signature. The user department recommendation and other appropriate documentation from the user department are submitted with the agenda request to justify the recommended award.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bid must be documented. Commissioners Court either approves the recommendation or rejects all bids and authorizes the Purchasing Agent to re-bid the goods or services.

RFP: The Purchasing Department supervises the evaluation process performed by the user department or committee to ensure that the evaluation is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional technical evaluation assistance provided by the County

Attorney, Auditor, Information Technology, or Maintenance, if applicable.

The RFP must specify the relative importance of price and other evaluation factors including the relative weight of each factor. Evaluators only use these specified factors in evaluating the proposals. Purchasing staff leads the evaluation team and is responsible for:

- Tabulating scores;
- Calculating values; and
- **either**
 - Coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award; or
 - Discontinuing the process.

After the evaluation is completed, Purchasing forwards an evaluation summary to the Official or Department Head for concurrence with the selection and requests that the Official or Department Head submit a memo to the Purchasing Agent signifying their concurrence. Purchasing makes the recommendation to Commissioners Court.

Note: For high visibility or high dollar value procurements, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.

Negotiations (RFP)

The Purchasing Agent supervises all negotiations. Any conversations with proposers must be coordinated with the Purchasing Agent. **A member of the Purchasing Department should be present for all discussions with proposers.** Departments that contact proposers without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.

All proposers 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" (BAFO).

After the negotiations are complete, the Purchasing staff requests qualified proposers to submit a BAFO to a specified location by a specified date. Based on the negotiations, the BAFO must allow the proponent to:

- Modify the initial offer;
- Update pricing based on any changes the user department or County has made; and
- Include any added inducements to improve the overall score in accordance with the evaluation plan of the RFP.

Contract Award

RFB: The Purchasing Agent recommends contract award to Commissioners Court. The Commissioners Court either:

- Awards the contract to the responsible bidder who submits the

- lowest and best bid; or
- Rejects all bids and directs publication of a new notice if the goods or services are still needed.

If two or more responsible bidders submit the lowest and best bid, the Commissioners Court decides 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 about its responsibility.

After Commissioners Court approves the contract, the Purchasing Agent issues a Notice of Contract Award. This notice and the original contract form the complete contract. A complete original contract is maintained in the Purchasing Department. The other original is furnished to the Contractor. Copies of these are furnished to the user department, the Auditor's Department, County Clerk, and the County Attorney.

RFP: The BAFO is the basis of a recommendation of contract award. The award of the contract is made by Commissioners Court to the responsible proposer, 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 in the RFP.

Re-solicitation of Annual Contracts

The Purchasing Department monitors the expiration dates of all contracts. Purchasing notifies user departments by memo at least three months before contract expiration and verifies whether the goods or services need to be re-bid or extended, if extensions are available. Purchasing also sends the existing specification or requirements to the user department and requests any changes before the solicitation is reissued. The user department returns the specifications or requirements with any additions, deletions, or corrections. It is very important that renewable contracts be reviewed carefully, since the Texas Constitution requires all contracts involving the expenditure of public money be subject to termination if current funds are unavailable to pay the contractual costs, so the County does not incur unauthorized debt.

Procurement Methods

Procurement Method	Use When	Advantages	Disadvantages
Competitive Bids (Request for Bids)	<ul style="list-style-type: none"> ▪ Adequate competition exists. ▪ The product or service is available from more than one source. 	<ul style="list-style-type: none"> ▪ Award process is simpler. ▪ Award is made to the lowest responsive, responsible bidder providing the best value to the County. 	<ul style="list-style-type: none"> ▪ Defined specifications may be difficult to develop. ▪ Does not encourage innovative solutions.
Competitive Proposals (Request for Proposals, Request for Offer)	<ul style="list-style-type: none"> ▪ When factors other than price are evaluated. ▪ When negotiations are desired. ▪ Vendor is expected to provide innovative ideas. 	<ul style="list-style-type: none"> ▪ Allow factors other than price to be considered. ▪ Allows for customized proposals suggesting different approaches to the same business need. ▪ Allows for negotiations in order to obtain the best value for the County. 	<ul style="list-style-type: none"> ▪ RFPs can only be used for high technology goods and services, landscape maintenance, travel management and recycling. Lead times for procurement may be greater. ▪ Evaluations are more complex and subjective.
Request for Information	<ul style="list-style-type: none"> ▪ There is insufficient information to write specifications for any procurement method. 	<ul style="list-style-type: none"> ▪ Provides information to prepare a complete bid or proposal document. ▪ Allows the business community to have input into the solicitation document based on current industry practices and market factors. ▪ Informs County of any potential problems early in the procurement. 	<ul style="list-style-type: none"> ▪ Lengthens the procurement process.
Request for Qualification [This method is required by statute (e.g. Professional Services)]	<ul style="list-style-type: none"> ▪ Selection is made solely on the skills and qualifications of the contractor. Price is not a factor until after a vendor is elected. 	<ul style="list-style-type: none"> ▪ Emphasizes the competency of the proposed contractors. 	<ul style="list-style-type: none"> ▪ Contractor is selected before price is negotiated.

Background and Statutory Authority

There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously entered into by the State of Texas or other governments. The Texas Building and Procurement Commission (TBPC) manages three of them. The fourth 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 TBPC 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 TBPC. 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.

Official Representative

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

Contract Award

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 approved by the Commissioners Court.

Policy

State Term Contract Purchases

Potter County participates in the purchasing program.

Procedure

The Purchasing Agent either purchases directly through the State's web portal, Texas Smartbuy, or electronically sends purchase orders directly to vendors. The Purchasing Agent monitors vendor's

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 Department determines whether or not the requested goods or services are available from the State contracts.

Policy

Texas Multiple Award Schedules (TXMAS)

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

Procedure

The Purchasing Agent monitors the vendor's 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 Potter County.

To initiate this process, the user department may research goods and services on the Texas Comptroller website to determine if the goods or services are available from TXMAS. Based on its research, the user department submits a purchase requisition and identifies in the requisition comments that the good or service may be available through TXMAS. The Purchasing Department determines whether or not the requested goods or services are available from TXMAS and compares prices among TXMAS vendors to obtain the best value. The Purchasing Department works with the user department to determine best value and then issues a purchase order with the selected vendor providing the best value.

Policy

Computer Purchases (DIR)

The County purchases computer-related equipment from the state's Department of Information Resources (DIR) and its contracted vendors. The County contracts with DIR and uses its Go DIRect program.

Procedure

The Purchasing Agent sends purchase orders directly to DIRect vendors. The Purchasing Agent monitors vendor's 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 this process, the user department may research goods and services on the DIR website to determine if the goods or services are available from DIR or its contracts. Based on its research, the user

department submits a purchase requisition and identifies in the requisition comments that the good or service is available from DIR. The Purchasing Department determines whether or not the requested goods or services are available from DIR, and if available, the Purchasing Department compares prices among DIR vendors to obtain the best value. The Purchasing Department works with user department to determine best value and issues a purchase order with the selected vendor providing the best value.

If the purchase is from a vendor who is part of the Go DIRect program, the County issues the purchase order directly to the vendor and pays the vendor directly. If the purchase is to a vendor that is not part of the Go DIRect program, the County issues the purchase order to DIR, which authorizes a separate purchase order to the vendor.

Chapter 12: Cooperative Purchasing Agreements

Background and Statutory 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 services under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and services. The County must have independent authority to purchase a particular good or service before utilizing an interlocal agreement, since the Interlocal Cooperation Act does not expand the County's purchasing authority. The County has a variety of interlocal agreements.

Policy

The County participates in the purchasing programs of various local, state, and national cooperatives such as Houston Area Council of Governments (HGAC), 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.

Official Representative

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

Procedure

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.

The Purchasing Department determines whether or not the requested goods or services are available from a specific cooperative. If available, the Purchasing Department compares prices among cooperative and local vendors to obtain the best value. The Purchasing Department works with the user department to determine best value and issues a purchase order with the selected vendor using the purchasing method that provides the best value.

The Purchasing Agent either submits requisitions to the applicable cooperative or electronically 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.

**Contract
Award**

The Purchasing Agent may execute all contracts for interlocal contract purchases 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.

Background and Statutory Authority

In procuring professional services, the County must comply with two statutes: the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and the County Purchasing Act (Chapter 262 of the Texas Local Government Code). There are two kinds of professional services:

- Those professional services specifically listed in the Professional Services Procurement Act; and,
- Those "other" professional services that are not specifically listed which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent relies on court cases and attorney general opinions to determine what services are included in these "other" professional services.

“Professional services” is defined in Chapter 2254 of the Texas Government Code as:

- Those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, real estate appraising or professional nursing, or
- Provided in connection with the professional employment or practice of a person who is licensed or registered as an architect, optometrist, physician, surgeon, certified public accountant, land surveyor, landscape architect or professional engineer, state certified or state licensed real estate appraiser, or registered nurse.

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 (RFQ)

To ensure professional vendors a fair and equal opportunity to do business with the County, and to ensure that the services of the most qualified professional are obtained, professional services are procured using the Request for Qualifications (RFQ) process.

Procedures

Departments forward a recommendation memo to the Purchasing Agent when professional services are required. The memo identifies the following:

- Scope of work
- Qualification and experience requirements
- Project description and deliverables
- Time frames
- Budgeted amount and budget line items
- Suggested professionals

Based on the information provided in the memo, applicable state

laws, and all relevant facts, the Purchasing Agent makes a determination about implementing a formal RFQ or an informal procurement process.

Unless specifically exempted by the Commissioners Court, all professional services anticipated to cost more than \$50,000 are procured using the formal RFQ process. The Purchasing Agent submits all exemption orders to the Commissioners Court. The Purchasing Agent requests a formal exemption from the Commissioners Court for approval before selecting and negotiating with any vendors. The Purchasing Agent submits the exemption request to the Commissioners Court for approval before selecting and negotiating with any vendors.

Purchase Requisition

Either the memo submitted to the Purchasing Agent, signed by the Official or Department Head or a direct email from the Official or Department Head serves as the initial requisition. The memo must include the budget line items from which the purchase is funded or an explanation that is acceptable to the Purchasing Department about how funding is obtained before the Purchasing Department proceeds with the preparation of the RFQ. Requirements (scope of work) should be attached to the memo and also forwarded electronically to the Purchasing Department. If requirements are not attached, Purchasing and the user department jointly develop them.

Notice

The user department follows up the memo request with entry of a requisition into the GEMS system.

After development of requirements and preparation of the RFQ, a notice of the proposed purchase is published by the Purchasing Department unless Commissioners Court approval of the RFQ is required. The Commissioners Court must approve advertising for any RFQ for which there is not adequate funding in the budget or for which the auditor has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.

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 solicitation opening. To ensure vendors sufficient time to complete and return their solicitation, Purchasing generally advertises for 17 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

Amendment of RFQ

The Purchasing Agent may extend the response opening date on the notice of an RFQ if an error is discovered, or the nature of the services requires an extension. The Purchasing Agent may amend

an RFQ to clarify its original intent or to correct clerical errors if:

- Inquiries about the meaning of the RFQ indicate the need for an amendment;
- Changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- The amendment does not change the general scope of the RFQ.

There must be at least three days between the date of the amendment and the opening date specified in the notice. If less than three days exist, the opening date should be extended to allow for a minimum of three days between the date of the amendment and the opening date specified in the amendment.

Pre-Proposal Conference

The Purchasing Agent works with the user department to determine if a pre-proposal conference is necessary. Purchasing staff manages any pre-proposal conference and requests that the user department makes staff available to answer questions at the conference.

Receipt of Responses

To ensure confidentiality, the following procedures are adhered to when receiving vendor responses:

- The Purchasing Agent receives all responses as specified by the RFQ.
- All responses are stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department serves as the **official** time clock for identifying the date and time a response is received in the Purchasing Department.
- **Responses are not received after the opening time on the day of opening.** All responses received after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response was received after the due date and time.
- After responses are received, the Purchasing Department keeps them secured until the opening date. The responses are to be received sealed and remain sealed until they are opened by the Purchasing Department on the advertised date and time.
- On occasion, responses that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the response were not reviewed and the response was sealed again by an employee, and the event is documented.

The above process is undertaken to preclude any perception of favoritism, and avoid revealing response information. Publicly receiving sealed responses and recording the submission of requested responses inhibits any perception that the Purchasing

Department is manipulating the receipt of responses.

Opening of Responses

Sealed responses are opened and documented by the Purchasing Department. Only the names of vendors submitting responses are announced. The Purchasing Agent opens the responses on the date specified in the notice.

Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality Memorandum

As described in Chapter 3 of this manual, the Potter County Purchasing Department uses a confidentiality memorandum to ensure that proprietary information is kept confidential. Before the evaluation of confidential proposals begins, the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the evaluation process to keep information confidential **until the Commissioners Court approves an award**. This memorandum includes disclosure of any potential conflict of interest, or any attempted communication by the vendor to evaluation committee members.

Evaluation

The Purchasing Department supervises the evaluation process performed by the user department or committee to ensure that it is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional technical evaluation assistance provided by the Auditor or IT if applicable.

The RFQ must specify the evaluation factors to be used to determine minimum qualifications. Price is not a factor in this type of solicitation. Evaluators may use only the specified evaluation factors in evaluating the responses. Purchasing staff leads the evaluation team and is responsible for:

- Tabulating scores;
- Calculating values; and
- **Either**
 - Coordinating follow-up meetings for Best and Final Offer (BAFO) negotiations and recommending an award; or
 - Discontinuing the process.

After the evaluation has been completed, Purchasing forwards an evaluation summary to the Official or Department Head for concurrence with the selection and requests that the Official or

Department Head submit a memo to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners Court.

Note: For high visibility or high dollar value procurements, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.

Negotiations and Best Final Offer (BAFO)

The Purchasing Agent supervises all negotiations. All conversations with proposers must be coordinated with the Purchasing Agent. A member of the Purchasing Department should be present for all discussions with proposers. Departments that contact proposers without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.

All vendors must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of responses and submittal of a BAFO.

After the negotiations are complete, the Purchasing staff requests qualified vendors to submit a BAFO by a specified date and to a specified location. Based on the negotiations, the BAFO must allow the proponent to:

- Modify the initial offer;
- Update the response based on any changes the user department or the County has made; and
- Include any added inducements that may improve the overall score based on the evaluation plan of the RFQ.

Recommendation for Award

The Purchasing Agent works with the Official or Department Head to develop the recommendation for award and present it for approval to the Commissioners Court.

Professional Services “Pools”

If, as a result of an RFQ, County enters into contracts with more than one qualified professional vendor a pool of these professionals is created to provide services as needed. The user department must ensure that an RFQ is distributed at least once every 4 years so that newly qualified professionals may be added to the pool.

Architectural and Engineering Services

When procuring architectural or engineering services, the County follows the RFQ process described above and adds a second step. First, vendors responding to the RFQ are evaluated. The Purchasing Department works with the evaluation committee to develop a rank ordering of vendors. Based on the committee’s evaluation of responses, they identify the “most highly qualified” vendors with whom the County wishes to negotiate. The

Purchasing Agent recommends to Commissioners Court the most highly qualified vendors and requests authorization to negotiate on the basis of demonstrated competence and qualifications. The Purchasing Agent and Official or Department Head enter into negotiations with the most highly qualified vendor for 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 formally end with that vendor. The next most highly qualified vendor is then asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

Any contract with professional vendors based on a competitive bid is void because it is contrary to state law.

Written Contract Before any services are rendered, a contract for professional services, in writing, is approved and signed by either the Purchasing Agent if less than \$50,000 or Commissioners Court if more than \$50,000. The Purchasing Agent may execute any contracts for professional services that are procured in compliance with the Professional Services Procurement Act and in which the cost of services does not exceed \$50,000 if the Auditor's Department verifies that the services sought have been approved by the Commissioners Court and adequate funds are budgeted for it and the County Attorney has reviewed the contract.

“Other” Services Defined As defined in this manual "other" personal or professional services are those services usually referred to as a professional service, but not specifically listed in the Professional Services Procurement Act. Various court opinions have stated that these "other" professional services are 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. "Other" personal services have been defined as services that must be performed by a particular person and, by the terms of the contract, no substitutions are allowed. Examples include computer programmers, lawyers, and facilitators.

Request for Services (RFS) To ensure vendors a fair and equal opportunity to do business with County, and to ensure the services of the most qualified person or professional, "other" personal or professional services must be procured using the Request for Services (RFS) process unless the contract is for less than \$50,000 or the Commissioners Court approves another procedure.

Exceptions The Sheriff is authorized to negotiate and execute contracts with independent contractors for the following services if the vendors are selected on the basis of qualifications, the contracts are within

budget and the County Attorney and the Purchasing Agent review the contract.

- Nursing in the corrections facilities,
- Instructors for the sheriff's academy,
- Chaplains for the corrections facilities, and
- Prisoner detention services.

Procedures

User departments forward a memo to the Purchasing Agent when "other" personal or professional services are required. The memo identifies the following:

- Scope of work
- Qualification and experience requirements
- Project description and deliverables
- Time frames
- Budgeted amount and budget line items
- Suggested persons or professionals
- Selection criteria

Based on the anticipated costs, information provided in the memo, applicable state laws and all relevant facts, the Purchasing Agent determines whether a formal RFS or an informal procurement process are implemented or recommended to the Commissioners Court.

Unless specifically exempted by the Commissioners Court, all personal or professional services anticipated to cost over \$50,000 are procured using the formal RFS process. The Purchasing Agent submits all exemption orders to the Commissioners Court. Unless there is an urgent need for the services, the request is submitted to the Commissioners Court for approval **before** selecting and negotiating with any vendors.

Purchase Requisition

Either a memo signed by the Official or Department Head and submitted to the Purchasing Agent or a direct email from the Official or Department Head serves as the initial requisition. The memo must include the budget line items from which the purchase is funded or an explanation about how funding is obtained that is acceptable to the Purchasing Department before the Purchasing Department prepares the RFS. Requirements (scope of work) should be attached to the memo and also forwarded electronically to the Purchasing Department. If requirements are not attached, Purchasing and the user department jointly develop the requirements.

The user department follows up the memo request with entry of a requisition into the GEMS system.

Notice

After development of requirements and RFS preparation, the Purchasing Department usually publishes a notice of the proposed

purchase unless Commissioners Court approval of the RFS is required.

The Commissioners Court must approve advertising for any RFS if the Auditor has not verified that the services sought have been approved by the Commissioners Court and the Court has placed adequate funding in the budget.

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 response opening. To ensure vendors sufficient time to complete and return responses, Purchasing generally advertises for 17 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

Amendment of RFS

The Purchasing Agent may extend the response opening date on an RFS notice if an error is discovered, or the nature of the services requires an extension. The Purchasing Agent may amend an RFS to clarify its original intent or to correct clerical errors:

- If inquiries about the meaning of the RFS indicate the need for an amendment;
- If the changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- If the amendment does not change the general scope of the RFS.

There must be at least three days between the date of the amendment and the opening date specified in the notice. If less than three days exist, the opening date should be extended to allow for three days between the date of the amendment and the opening date specified in the amendment.

Pre-Proposal Conference

The Purchasing Agent works with the user department to determine if a pre-proposal conference is necessary. Purchasing staff manages any pre-proposal conference that is held and requests that the user department make staff available to answer questions at the conference.

Receipt of Proposals

To ensure confidentiality, the following procedures are adhered to when receiving vendor responses:

- The Purchasing Agent receives all proposals as specified by the RFS.
- All responses are stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department serves as the **official** time clock for the purpose of identifying the date and time responses was received in the Purchasing Department.
- **Responses are not received after the opening time on the**

day of opening. All responses received after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response are received after the due date and time.

- After responses are received, the Purchasing Department keeps them secure until the opening date. The responses are to be received sealed and remain sealed until the Purchasing Department opens them on the advertised date and time.
- On occasion, responses that are received in the mail or by some other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the response were not reviewed and the response is sealed again by that employee, and the incident is documented.

The above process is undertaken to preclude any perception of favoritism and avoid revealing response information. Publicly receiving sealed responses and recording the submission of requested responses should inhibit any perception that the Purchasing Department is manipulating the receipt of proposals.

Opening of Responses

Sealed proposals are opened and documented by the Purchasing Department. Only the names of vendors submitting proposals are announced. The Purchasing Agent opens the proposals on the date specified in the notice. The Purchasing Agent may extend the date specified in the notice if the original RFS needs to be amended.

Responses are opened to avoid disclosing the contents to competing vendors and are kept secret during the process of negotiation. All responses that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality Memorandum

As fully described in Chapter 3 of this manual, the Purchasing Department uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Department sends a memorandum to the evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the course of the evaluation process to keep information confidential **until the Commissioners Court approves an award.** The memorandum includes disclosure of any potential conflict of interest, or any attempted communication by the vendor to evaluation committee

members during evaluation.

Evaluation

The Purchasing Department supervises the evaluation process performed by the user department or committee to ensure that it is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional technical evaluation assistance provided by the Auditor or Information Technology if applicable.

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

Evaluators use only the specified evaluation factors in evaluating the proposals. Purchasing staff leads the evaluation team and is responsible for:

- Tabulating scores;
- Calculating values; and **either**
 - Coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award; or
 - Discontinuing the process.

Once the evaluation is completed, Purchasing forwards an evaluation summary to the Elected Official/Department Head for concurrence with the selection and requests that the Official or Department Head submit a memo back to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners Court.

Note: For high visibility or high dollar value procurements, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.

Negotiations and Best and Final Offer (BAFO)

The Purchasing Agent supervises all negotiations. All conversations with proposers must be coordinated with the Purchasing Agent. A member of the Purchasing Department should be present for all discussions with vendors. Departments that contact vendors without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.

All vendors must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of responses and submittal of a BAFO.

After the negotiations are complete, the Purchasing staff may

request that qualified vendors submit a BAFO by a specified date and to a specified location. Based on the negotiations, the BAFO must allow the vendor to:

- Modify the initial offer;
- Update the response based on any changes the user department or County has made; and
- Include any added inducements that may improve the overall score based on the evaluation plan of the RFS.

Recommendation for Award The Purchasing Agent works with the Elected Official or Department Head to develop the recommendation for award and present it for approval by Commissioners Court.

Vendor "Pools" If, as a result of an RFS, the County enters into contracts with more than one qualified professional to create a pool of these professionals to provide services as needed, the user department must ensure that an RFS is distributed at least once every 4 years so that newly qualified professionals may be added to the pool.

Disclosure of Former Employees To be considered responsive, a person who offers to provide personal or professional services to a user department who has been employed by the County at any time during the two years before making the response must disclose in the response:

- 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 Before any services are rendered, a contract for "other" personal or professional services shall be in writing, approved, and signed by either the Purchasing Agent if less than \$50,000 or the Commissioners Court if more than \$50,000. If less than \$50,000, the Purchasing Agent determines which person or professional is selected based on the recommendation of the user department. The Purchasing Agent may execute any contracts for "other" personal or professional services that are procured in compliance with the Purchasing Act and in which the cost of services does not exceed \$50,000.

The Purchasing Agent may execute contracts for legal representation based on the attorney selected by the client on the recommendation of the County Attorney if the cost does not exceed \$50,000.

Purchasing Statutes

Subsection 262.011 (e) of the Texas Local Government Code states that "The County Purchasing Agent shall supervise all purchases made on competitive bid..." Chapter 271 Subchapter C is used only for public works projects funded by Certificates of Obligation. Chapter 2267 provisions are used when an alternative project delivery method (other than traditional competitive bidding) is used for public works projects.

Construction procurement is consistent with other procurement procedures in this manual and with pertinent statutes. The Purchasing Agent supervises all construction procurements. All competitive bids are accomplished by the following process:

Purchasing Requisition

A memo submitted to the Purchasing Agent, signed by the Elected Official/Department Head or as directed by the Commissioners Court serves as the initial notification that a competitive bid is needed. An electronic copy of the notification may be submitted to assist in the development of the formal bid. Before the formal bid is released, the Purchasing Agent and County Attorney review and approve the Bidding and General Requirements. The Purchasing Agent reviews the bid specifications for compliance with the Purchasing Act and the County Attorney reviews them for legal considerations.

NOTE: Purchasing prints the document when there is only a project manual and no plans. The user department is responsible for printing when there are both plans and a project manual.

The user department must provide the Purchasing Department at least thirty (30) workdays to develop the RFB, and circulate it for the appropriate reviews. During this time, Purchasing develops a Procurement Schedule detailing the milestones of the solicitation, including dates and times for the pre-bid conference, bid opening, and preconstruction conference. The Purchasing Department assigns an RFB number to the project at this time if it has not already been assigned.

GEMS Use

The Purchasing Department enters all construction contracts into the GEMS system. The County uses the GEMS system to process and track payments to the prime contractor.

Bidding Notice

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

- Description of Work;
- Location at which the bidding documents, plans, specifications, or other data may be examined. The location at which plans and specifications may be obtained and the amount of the deposit required;

- Time and place for submitting bids and time and place of bid opening;
- The method of payment. If payment is by certificate of obligation, the advertisement must state either :
 - That the bidder must accept certificates, or
 - That the bidder must elect to accept certificates or assign them to a financial institution with which county has made an arrangement.

If the contract is to be awarded on a unit price basis, the notice must also include the approximate quantities of the goods and services needed that are to be bid on and the quantities must be based on the best available information.

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. To ensure bidders (proposers) sufficient time to complete and return RFB's, Purchasing generally advertises for 17 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

**Consideration
of Safety
Records**

If the RFB states that the safety record may be considered in determining the responsibility of the bidder and includes the Safety Record Questionnaire in the RFB, County takes into account the bidder's safety record in determining the responsible bidder. The safety record includes compliance with requirements for the safety of the environment. In relation to the safety record, bidder includes not only the bidder; but also the firm, corporation, partnership or institution represented by the bidder; or anyone acting for such a firm corporation, partnership or institution.

The definition and criteria for determining the safety record of a bidder:

1. If the bidder reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the past three (3) years, County will, at its discretion, determine whether to disqualify the bidder.
2. If the bidder reveals more than one (1) case in which bidder has received a citation from an environmental protection agency for violations within the past five (5) years, County will, at its discretion, determine whether to disqualify the bidder.

Environmental Protection Agencies include the U.S. Army Corps of Engineer (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas

Commission on Environmental Quality (TCEQ), and its past associated agency: the Texas Natural Resource Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States.

Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.

Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

3. If the bidder reveals that the bidder has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, County will determine whether to disqualify the bidder.

Bonding

Bonds are not required for construction contracts that are less than \$25,000.

Bid Bonds

Bid bonds are not 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 RFB states that 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.

Letters of Credit may not be substituted for any bid bonds related to a public works project, if the cost of the project exceeds \$25,000.

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, before commencing work, the vendor must execute a performance bond that is:

- Payable to Potter County, Texas,
- In the full amount of the contract,
- Conditioned on faithful performance of the work in accordance with the plans, specifications, and contract documents,
- Solely for the protection of the County,
- Executed by a corporate surety or sureties in accordance with the Insurance Code, and
- In a form approved by the Commissioners Court.

Any performance bond that is furnished by a contractor in attempted

compliance with the requirements of Texas Government Code, chapter 2253 is construed as if it conforms to that chapter in relation to rights created, limitations on the bonds and remedies provided.

Letters of Credit may not be substituted for any performance bonds related to a public works project if the cost of the project exceeds \$25,000.

Payment Bonds

For all contracts in excess of \$25,000 for the construction, repair, or alteration of a public work or the prosecution or completion of any public work, the vendor, before commencing work, must execute a payment bond that is:

- Solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply labor or material for a public work,
- Payable to Potter County, Texas, In the amount of the contract,
- Executed by a corporate surety or sureties in accordance with the Insurance Code, and
- In a form approved by the Commissioners Court.

Payment bonds must be effective from commencement of performance until the end of the fourth month after all work for the project is completed, unless releases are obtained from all subcontractors and materialmen. Any payment bond that is furnished by a contractor in attempted compliance with the requirements of chapter 2253 of the Texas Government Code are construed as if it conforms with that chapter in relation to rights created, limitations on the bond, and remedies provided.

A bond required under this section must clearly and prominently display on the bond or on an attachment to the bond: (1) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or (2) the toll-free telephone number maintained by the Texas Department of Insurance under subchapter B, chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

The County may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

Letters of Credit may not be substituted for any payment bonds related to a public works project if the cost of the project exceeds \$25,000.

Pre-Bid Conference

The Purchasing Department provides detailed information on the bidding requirements of the RFB to ensure that purchasing procedures are complied with and the user department provides technical information and ensures that technical standards are complied with. Purchasing schedules the pre-bid conference and assists in conducting the conference as follows:

- Ensuring all attendees sign the attendance roster and provide a detailed Agenda which:
 - Provides a brief introduction of the project title, magnitude, and performance period.
 - Indicates whether there has been any addendum issued, and if so, all attendees and project document holders must receive a copy.
 - Discusses the Purchasing Department role in the procurement and administration process.
 - Establishes a “cutoff” date for questions and request for clarifications, as well as a final date for issuance of addendum
- Determining whether the project Engineer, Architect or Project Manager have discussed the specifics of the project, including review of the plans and specifications, and facilitating a question and answer session.
- Determining any issues discussed during the conference that requires issuance of an addendum. The Purchasing Agent may extend the date specified in the notice if needed. The Purchasing Department issues the amendment only if there are at least five (5) days between the date of the addendum and the date specified for bid opening. If less than five days exist, the opening date should be extended to allow for a minimum of five days between the date of the addendum and the opening date specified in the addendum.
- Assuring that the user department provided Purchasing with the technical documents (i.e. changes or additions to the plans and or specifications). Purchasing prepares an addendum using the standard form and distributes the addendum to all applicable vendors.
- Recording the minutes of the meeting and distributing them to all attendees.

Receipt of Competitive Bids

The following procedures are adhered to when receiving bids:

- The Purchasing Department receives all bids as specified by the IFB.
- **Bids are not received after the opening time on the day of bid opening.** All bids received after the opening time are returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
- The Purchasing Department records the date the bid was submitted.
- After bids are received, the Purchasing Department provides a

secure place to hold the bids until the opening date. The bids are to be received sealed and remain sealed until the Purchasing Department opens them in a public forum on the advertised date and time.

- On occasion, bids that are received in the mail or by some other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the bid, especially the price, were not reviewed, then the bid is sealed again by that employee, and the incident is documented.

The above process shall be undertaken in a manner that precludes any perception of favoritism and avoids revealing bid prices or any bid information. Publicly receiving sealed bids and recording the submission of requested bids inhibits the perception that the Purchasing Department is manipulating the receipt of bids.

Public Opening of Bids

The Purchasing Department publicly opens and documents sealed bids on the date, time and place specified in the notice. Preliminary bid tabulations are provided to the public upon request. The Purchasing Department is responsible for creating the bid tabulation for distribution to the user department and the general public. For those bids that contain numerous line items, a tabulation that includes the total bid amount, excluding individual line item amounts per bidder, can be provided immediately after bid opening. Requests for all-inclusive bid tabulation are honored after it is completed and may require at least four (4) workdays.

A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. The Purchasing Agent provides a bid tabulation to the Commissioners Court.

Evaluation of Bids

The Purchasing Department evaluates all bids with assistance from the user department and they jointly develop a recommendation for award to Commissioners Court. The evaluation of bids is based on the following factors:

- The relative prices of the bids, including the cost of repair and maintenance of heavy equipment if that is subject of the bid, or the cost of delivery and hauling if road construction equipment is the subject of the bids;
- The compliance of goods and services offered with specifications; and
- The responsibility of the vendor, including the vendor's past performance, the vendor's financial and practical ability to perform the contract, and the vendor's safety record if Commissioners Court has adopted a definition of safety that is stated in the RFB.

Purchasing forwards a complete bid tabulation and award recommendation to the Official or Department Head for review and

signature. The bid tabulation and award recommendation is submitted with the agenda request to justify the award. Purchasing is responsible for placing the item on the agenda of the Commissioners Court.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bidder must be documented to the Commissioners Court. This recommendation may be supported by clear and concise documentation from the user department that determines the rationale for awarding to a bidder other than the lowest bidder. A joint review of the bid by the user department and the Purchasing Department is required.

Contract Award

The Purchasing Agent and the Elected Official or Department Head recommend contract award to Commissioners Court in session. The Court shall:

- Award the contract to the responsive and responsible bidder who submits the lowest and best bid; or
- Reject all bids and publish a new notice if the goods and services are still needed.

Single Responses: In the event only one response is received, the RFB/RFP will not be opened by the Purchasing Department as specified. The single response will be presented to the next regular meeting of the Commissioners Court for permission to open or direction to re-bid. If the Commissioners Court elects to open the RRB/RFP it may or may not be awarded during that court session.

If two or more responsive and 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 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 about its responsibility. After award, the County Judge signs the contract for the County and the Purchasing Agent returns the bid bonds of any vendor that was not awarded a contract.

A Notice-of-Award ("NOA") letter, issued by the Purchasing Department, accompanies the contractor's copy of the contract. The NOA letter includes the requirements for the contractor to submit various documents, and the time period within which they must be submitted. For example, Payment Bonds, Performance Bonds and an Insurance Certificate must be submitted within ten (10) workdays after contractor receipt of the NOA letter. Unless otherwise indicated, the NOA also states that Notice-to-Proceed is not issued unless the contractor submits the required documents within the specified time

period. An original contract is maintained in the Purchasing Department. Copies are furnished to the County Clerk, Auditor, County Attorney, and user department.

Pre-Construction Conference

Purchasing schedules the Pre-Construction Conference (also known as the Pre-Performance Conference). The user department is responsible for all technical presentations and the Purchasing Department ensures that all applicable purchasing procedures are followed. Purchasing assists in conducting the Conference by:

- Having all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project;
- Discussing briefly the contract requirements, amount, and any other pertinent information about the project. The user department representative (technical representative) is responsible for providing a thorough synopsis of contract requirements and any County policies to which contractor must adhere;
- Establishing dates for Submissions of all required documents such as material submittals, progress reports, payrolls, (when applicable), etc.
- Receiving required documents from the contractor, i.e., Performance Bond, Payment Bond, Insurance Certificate;
- Ensuring a complete understanding by all participants on all issues before adjourning.
- Preparing minutes of the Conference, including all technical discussions and distributing them.
- Working with the user department on the timing of the issuance of the Notice-To-Proceed (NTP). After Purchasing receives all of the required documents, the user department determines when the NTP is issued. If all is in order, Purchasing issues the NTP.

Note: The NTP is not issued until all required bonds and insurance have been received, reviewed and verified with the appropriate agency (i.e. surety or insurance agency).

Contract Administration

The user department is responsible for monitoring and documenting contractor performance and compliance and provides Purchasing with copies of this documentation, which keeps the Purchasing Department informed about all performance and compliance issues. Discussions that merely explain the interpretation of the specifications may be dealt with orally by the user department.

If poor performance or noncompliance with the contract is evidenced, the user department initiates written corrective action with the contractor and provides Purchasing with an advance copy of any written correspondence directing correction of a discrepancy. The user department solicits Purchasing to initiate corrective action when the user department cannot resolve conflict through correspondence in consultation with the occupant department.

The user department must not provide any instructions or requests for

changes directly to the contractor. The user department must provide all information necessary for the contractor to meet its needs either through the user department that is responsible for constructing the facility or the Purchasing Department. Only the user department's project manager or the Purchasing Agent has the authority to give any directions directly to the contractor.

The Purchasing Agent takes all steps related to correcting non-compliance with the contract but must consult with the County Attorney before taking any steps toward suspension or termination of the contract unless emergency, life safety, or property damage issues require immediate temporary work stoppage. Before any letters, notices or other communication related to termination or suspension are sent to the contractor, the contents of these must be reviewed by the County Attorney as the initial steps toward potential litigation.

Documentation of contractor performance is often overlooked and is most important if suspension or termination is sought. To enforce contractual terms, documentation of specific noncompliance must be available. Specific dates, locations, examples, etc. must be documented.

Contract administration duties are basic daily, weekly, and monthly activities of the Purchasing staff and must take place to ensure successful completion of the project and to ensure the County receives the goods and services for which it has contracted. Unless otherwise noted, the following are responsibilities of the Purchasing Department:

- Schedule and assist in conducting the preconstruction conference.
- Maintain a comprehensive, neat, and orderly contract file that includes all documentation related to the procurement process including the pre-solicitation, solicitation, contract award, post award, and administration phases of the project.
- Monitor the continued insurance coverage and obtain updated certificates on a timely basis
- If project is federally funded, receive and review copies of contractor payrolls to ensure payments made to contractor's employees comply with the prevailing wage rate classifications by trade included in the contract.
- Perform periodic visits to the construction site to perform spot labor interviews to ensure contractor compliance with prevailing labor laws.
- Receive and review copies of contractor invoices for accuracy. Discrepancies are reported to the contractor and user department for resolution. The user department provides Purchasing with a copy of the invoice immediately upon receipt from the contractor. The Purchasing Agent verifies in writing that the invoice is appropriate for payment before submitting it to the County Auditor for payment.

- Maintain and monitor correspondence: The user department may hold oral discussions with the contractor that merely explain or interpret the specifications. All correspondence, concerning major issues involving noncompliance, between the contractor and the County are directed through the Purchasing Department. This ensures 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, or those regarding minor issues, correspondence may be issued directly to the contractor through the user department. **However, Purchasing must be provided a copy immediately.** The professional judgment of the user department representative determines what constitutes an emergency, and what is considered to be a minor issue. If it appears that the level of noncompliance may result in a suspension or termination of the contract, the Purchasing Agent must seek the advice of the County Attorney before sending a notice to show cause not to terminate or placing the contract on the agenda for the Commissioners Court to authorize termination.

Purchasing maintains all insurance and bond certificates. Bid bonds may be required with all bids over \$25,000 and are maintained in the Purchasing Department. The contractor provides payment and performance bonds within ten (10) workdays after receipt of the Notice-of-Award letter. They are reviewed by both the user department representative and Purchasing. Originals are maintained in the Purchasing Department. Copies are provided to the user department upon request. Insurance certificates are provided by the contractor during the pre-construction conference. The certificate is maintained in the main contract file in the Purchasing Department.

Change Orders

The Purchasing Agent on the recommendation of the Elected Official or Department Head responsible for the project may approve change orders to construction contracts.

The Purchasing Agent may modify contracts at any time, in writing, if the changes are within the general scope of the contract including changes to any of the following:

1. Drawings, designs, or specifications;
2. Correction of errors of a general administrative nature or other mistakes;
3. Increases or decreases in the quantity of items purchased and;
4. Time extensions allowed by the contract terms and conditions.

The Commissioners Court must approve increases or decreases in cost of \$50,000 or less; however, the original contract price may not be increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or

judicial decision enacted, adopted, or rendered after the contract was made and the original contract price may not be decreased by 18 percent or more without the consent of the contractor.

Negotiations of change orders, particularly those which result in an increase in contract price or performance period, or change the scope of the project, require that the Purchasing Department be notified on a timely basis so that the Purchasing Agent can seek Commissioners Court approval. Purchasing shall be provided a copy of the proposed change order, with available supporting documentation.

A change order shall not be issued until it is determined that the necessary funds are budgeted and available. A statement to that effect should be included with the back up documentation.

**Close Out
Procedures**

The Purchasing Agent ensures that all applicable warranty certificates are received and safe-guarded throughout the term of the warranty. The Purchasing Department provides copies of the warranty certificates to the user department and the occupant department.

The Purchasing Agent supervises return of bonds in cooperation with the user department to ensure that the contract is complete in all respects before these are returned. The release must state that the subcontractor or materialman releases Potter County from all claims arising from labor or materials provided for the project.

**Alternative
Project
Delivery
Methods**

Chapter 2267 of the Texas Local Government Code applies if an alternative project delivery method (that is, not "traditional" competitive bidding) is being utilized. Specific procedures and requirements are developed for each specific project using an alternative delivery method. If an alternative project delivery method is not being used, the provisions of Chapter 262 of the Texas Local Government Code apply.

Purchasing Act Some goods and services can be exempted from the competitive procurement process if the Commissioners Court orders the purchase exempt. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants. The following is a list of these circumstances:

- 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;
- Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
- Goods and services necessary because of unforeseen damage to public property;
- Personal or professional services;
- Work performed and paid for by the day, as the work progresses to a maximum of 20 days within any three-month period;
- Any land or right of way;
- Food goods;
- Personal property sold at auction by a state licensed auctioneer, in a going out of business sale held in compliance with the Business and Commerce Code, or by a political subdivision, state agency or federal government entity;
- Work performed under a community and economic development contract under section 381.004 of the Texas Local Government Code; and
- Renewal of a lease or equipment maintenance agreement if the lease was competitively bid within the last year and the extension does not exceed one year.

Public Finance Act In addition, section 271.056 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made from funds obtained from certificates of obligation. The following is a list of these circumstances:

- 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;
- Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
- Goods and services necessary because of unforeseen damage to public property;
- Personal or professional services;
- Work performed by the County's employees and paid for as the work progresses;
- The purchase of any land, building, existing utility system, or right of way for authorized needs and purposes authorized under the certificate of obligation;
- A contract paid entirely from current funds or bond funds or a contract

for which advertising was done in compliance with Chapter 271 of the Texas Local Government Code and certificates of obligation are issued to provide for a deficiency in current funds or bond funds;

- The sale of a public security as defined in section 1204.001 of the Texas Government Code;
- A contract that is not required to be made in accordance with competitive bidding procedures under the County Purchasing Act.

Policy Exemption orders must be processed through the Purchasing Agent. For purchases exceeding \$50,000, the Purchasing Agent requests the exemption order from Commissioners Court in all cases except the acquisition of interests in land for county purposes.

Procedure The Elected Official or Department Head submits a memo to the Purchasing Agent requesting an exemption to the competitive procurement process and identifying the basis for the exemption (e.g. emergency, sole source). The memo must state specific details and explain why an exemption from the competitive procurement process should be requested and granted. When possible, it should also contain the name of the vendor, goods or services covered by the order and the expected maximum cost and other relevant programmatic information justifying the exemption.

Emergency Emergency means circumstances where an immediate response is required to provide for the safety of persons or property, but does not include any situation which results in the County Judge declaring a local state of disaster. **Emergency purchases exceeding \$50,000 require an exemption order granted by the Commissioners Court before a purchase order can be issued.**

Sole-source Goods and Services Sole-source goods and services require a signed statement from the Purchasing Agent about the existence of only one source, and specifically noting which type of listed sole source good or service is being purchased. For purchases over \$50,000, the statement is submitted for acceptance by Commissioners Court, and must be reflected in the minutes of the meeting of the Commissioners Court. Sole-source items include:

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

Real Property The Commissioners Court may purchase Real Property with or without the assistance of the Purchasing Agent. The Commissioners Court and the County Attorney supervise the lease of Real Property.

Statute The first renewal or extension of a lease or of an equipment maintenance contract can be exempted from formal competitive bidding, if the Commissioners Court orders the exemption **and if:**

- The lease or contract has gone through formal competitive bidding within the preceding year; and
- The renewal or extension does not exceed one year.

Policy The Purchasing Department processes the procurement of all equipment leases and maintenance contracts and exemption orders for all renewals or extensions. The Purchasing Agent supervises all negotiations with vendors. Purchasing maintains the document originals and sends the user department a copy. Purchasing monitors maintenance contracts for expiration dates and treats their renewal as annual term contracts.

The Purchasing Agent may 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. Commissioners Court must approve all other contracts.

Procedure The user department enters a requisition into the GEMS system identifying the budget line item account. The requisition identifies the purchase as either a lease or maintenance contract. The requisition should include the serial number, model number and physical location of equipment. The beginning and end dates of coverage should be specified.

If the user department is processing a renewal, the original contract number should also be identified in the requisition (either the County contract number or the State term contract number).

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 contract vendor, the user department must include the Vendor ID number, part number, class and item number, and contact person on the requisition.

Technical Department Approvals Information Technology (IT) may be involved in the analysis of whether a maintenance contract or in-house repairs are more appropriate. Departments should coordinate with IT on these analyses and provide a statement from the appropriate department that the maintenance contract sought is appropriate.

Note: An often-overlooked cost of equipment or software is on going maintenance. All ongoing maintenance issues should be considered,

evaluated, and priced in the initial procurement process.

Information Technology must be contacted on all software and hardware procurements and ongoing maintenance contracts. An IT Assessment should be submitted along with each agenda item for Commissioners Court action for these services.

Facilities Maintenance Department must be contacted before any new equipment is acquired so that it can determine whether there is adequate space and other facilities resources for the proper operation of the equipment.

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 whether it matches the County's purchase 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.

The user department must forward the invoice or delivery ticket to Purchasing upon receipt of goods. Timely receipt of paperwork is critical to the processing of payments to vendors in compliance with Texas Government Code, section 2251.021, commonly known as the Prompt Payment Act. According to this section, payment for goods or services received is overdue on the 31st day after the later of:

- The date the County receives the good under the contract.
- The date the performance of the service under the contract is complete, or
- The date the County receives an invoice for the goods or service.

The Purchasing Department will post the receipt of goods/services in the GEMS system making necessary adjustments to the purchase order. Invoices are then forwarded to the Auditor for payment processing.

Damaged Freight When a shipment arrives, the user department must inspect the condition of all cartons. If freight is undamaged, the department receiving the shipment should sign the freight bill. If freight is visibly damaged, the receiving department must instruct the freight line driver to:

1. Note the damage on the freight bill, and;
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 attached to the freight bill and packing slip.

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 about corrective action. To comply with the Prompt Payment Act, the Purchasing Department notifies the vendor within 21 days of any damaged goods received to avoid interest being paid to the vendor.

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 or the Purchasing Department.

Documentation All original receiving documentation must be sent to Purchasing. User department must make copies in order to maintain their own records. The department should provide documentation to the Purchasing Department regarding any disputes in receipts of goods.

Any warranty information **must** be copied to the Purchasing Department. Warranty information can be tracked through the Fixed Assets system.

Policy During the term of a contract, it may be necessary to make changes to the contract. These changes can be minor, administrative changes such as a change of address or they can be substantial changes that affect the price and delivery.

There are basically two ways to change a contract. One way is a bilateral modification, in which both parties to the contract agree that a modification is necessary. Both parties must sign to indicate their agreement. The second way is a unilateral modification. In this case, terms and conditions in the original contract set forth the situations under which the County may exercise a right to modify the contract without the contractor's consent.

Unilateral Charges The Purchasing Agent may modify contracts, in writing, if the changes are within the general scope of the contract including changes to any of the following:

1. 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;
2. Method of shipment or packing;
3. Place or time of delivery;
4. Correction of errors of a general administrative nature or other mistakes;
5. Increases or decreases in the quantity of items purchased;
6. Increases or decreases in cost of \$25,000 or less; however, the original contract price may not be increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made or decreased by 18 percent or more without the consent of the contractor; and
7. Time extensions allowed by the contract terms and conditions.

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

Policy Contract administration and oversight includes four general processes:

- Planning
- Monitoring Contractor Performance
- Payment Approval
- Change Management

This aspect of the procurement process is important. Written documentation of specific noncompliance must be available to enforce contractual terms. Documentation includes a description of specific dates, locations, examples, etc. of nonperformance and any contact or communication with the contractor about noncompliance.

Unilateral Changes The user department has primary responsibility for monitoring and documenting contractor performance and compliance. The user department must provide copies of all documentation of noncompliance to the Purchasing Department. Copies may be sent by email to the Purchasing Agent. The Purchasing Department maintains all documents about events during the term of the contract including contract performance including documentation related to clarification of expected performance. The user department does not need to provide copies of documentation about clarification of expected performance standards with which the contract complied after clarification. The user department should contact the Purchasing Department if there is any question about what should or should not be documented.

If the user department observes poor performance or noncompliance with the contract, Purchasing communicates with the contractor and initiates any corrective action. The Purchasing Agent takes all steps related to obtaining contract compliance, but consults with the County Attorney before taking any steps toward contract suspension or termination. Before any letters, notices and other communication related to termination or suspension are sent to the contractor, they are reviewed by the County Attorney as the initial steps toward potential litigation.

Contract Administration The primary objectives of contract administration are to:

- Ensure the contract requirements are satisfactorily performed,
- Properly discharge the responsibilities of both parties,
- Verify contractor performance before payment,
- Identify any material breach of contract by assessing the difference between contract performance and material nonperformance; and
- Determine if corrective action is necessary and take that action if required.

A written statement of work is the guide for contract administration.

Therefore, planning for contract administration occurs before issuance of the solicitation. Effective contract administration minimizes or eliminates problems and potential claims and disputes.

Proper contract management ensures that the contract requirements are satisfied, that the good(s) and services are delivered in a timely manner, and that the financial interests of the County are protected.

The contractor must perform and meet the requirements of the contract. To do so, contractors sometimes need technical direction and approval from County personnel. County personnel must provide this technical direction and approval in a timely and effective manner. All guidance provided to a contractor must be within the scope of the contract.

Contract Management

The primary responsibilities of the contract manager are:

- Participating, as necessary, in developing the solicitation and writing the draft documents,
- Monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements,
- Managing any county property used in contract performance,
- Authorizing payments consistent with the contract documents,
- Exercising remedies, as appropriate, where a contractor's performance is deficient,
- Resolving disputes in a timely manner,
- Documenting significant events, and
- Maintaining appropriate records.

The contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interests of the County are protected.

Post Award Conference

A post award conference is a meeting with the contractor and includes the principals responsible for administering the contract. The conference is typically held soon after the contract is awarded. It is an orientation for the contractor to ensure a clear and mutual understanding of all contract terms and conditions, and the responsibilities of all parties. The conference also serves as a tool to clarify and resolve any potential misunderstandings early. Although both the contractor and County personnel should be fully aware of the contract requirements, the post award conference ensures that those involved directly in the contract administration process understand all requirements of contract performance. Post award conferences are dependent upon the nature of the contract.

Monitoring Performance

Monitoring the performance of a contractor is a key function of proper contract administration. The purpose is to ensure that the contractor is performing all duties in accordance with the contract and for the user department to be aware of and address any developing problems or

issues.

**Monitoring by
Third Parties**

In some instances the obligation to monitor the progress of a contract is assigned to another contractor. This is known as independent oversight. For example, in a construction contract, the architectural firm that provided the construction plans may perform the task of ensuring progress in accordance with the contract.

**Dispute
Resolution**

Dispute resolution is covered by statute under Texas Government Code Chapter 2260. The goal of the resolution process is to resolve all problems before they escalate to the next level. To avoid escalation of problems to the next level and ensure the County has not exacerbated potential problems, County personnel must respond promptly to all contractor inquiries. Initial steps to be taken are:

- Identify the problem – what may appear to be a problem can sometimes be resolved by providing the contractor with information or clarification
- Research facts – Purchasing should obtain all the information about the potential problem from all relevant sources, including the project manager and the contractor.

Evaluation – Purchasing should review all of the facts in conjunction with the requirements and terms and conditions of the contract. Purchasing determines the appropriate course of action.

Proper dispute resolution is a core skill of successful contract management. Identifying problems early in the performance period, effectively communicating, and formalizing the process in writing through a cure note procedure or less formal written procedure is essential. A contract termination is a failure by BOTH parties to a contract. **Termination is the last resort.**

**Termination
for
Convenience**

A termination for convenience, also known as a no-fault termination, allows the County to terminate any contract, in whole or in part, at any time in its sole discretion, if it is determined that the termination is in the best interest of the County.

Purchasing provides the contractor a written notice specifying the extent of termination and the effective date, providing as much notice as possible.

The Contractor is generally paid for allowable costs incurred up to the termination. The County is not liable for payment to the contractor related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination.

**Termination
for Default**

A contract may be terminated for default when the County concludes that the contractor fails to perform, make progress, or in any way breaches the contract.

Termination for default should be used as the **last resort** and **not as punishment**. The County should do everything within reason to assist the contractor in curing any default. Factors to consider before making a termination for default decision include:

- The provisions of the contract and applicable regulations,
- The specific contractual failure(s) and the explanation provided for the failures,
- The urgency of the need for the contracted supplies or services,
- The availability of the supplies or services from other sources and the time required to obtain them, and
- Availability of funds or resources to repurchase if the costs cannot be recovered from the delinquent contractor. Under a termination for default, the County may demand re-procurement costs from the defaulting contractor.

Contract File

Keeping one complete master contract administration file is critical. The file provides a basis for settling claims and disputes if they arise in administrative or court actions. Throughout the life of the contract, the Purchasing Department contract administration file should contain such documentation as:

- An original copy of the current contract and all modifications,
- A copy of all specifications, drawings or manuals incorporated into the contract by reference,
- The solicitation document, the contractor's response, evaluation determination, and the notice of award document,
- A list of contractor submittal requirements,
- A list of County furnished property or services,
- A copy of the pre-award conference summary, if applicable,
- A copy of all general correspondence related to the contact,
- The originals of all contractor data or report submittals,
- A copy of all notices to proceed, to stop work, to correct deficiencies and change orders,
- The records or minutes of all meetings, both internal and external, including sign-in sheets and agendas,
- A copy of the original bidders list, and

Any other information required by the standard contract file checklist Purchasing Policy and Procedures Manual Professional Development and Certification.

- Policy** The policy of the Potter County Purchasing Department is to develop and maintain a professional procurement staff that achieves these broad purposes:
- To provide the best service possible to all county departments in a fair and equitable manner;
 - To ensure an atmosphere of equality to all vendors without regard to undue influence or political pressures; and
 - To protect the interest of county taxpayers in all expenditures.
 - Acquire goods and services of the right quality, in the right quantity, at the right price, at the right time and from the correct source.
- Key Objectives** Within the stated purposes, the Purchasing Department strives to meet the following key objectives:
- The actions of the office must be legal, ethical, and defensible.
 - The office contributes to the attainment of Potter County’s organizational goals.
 - The office effectively communicates with all county employees and vendors.
 - The office consistently provides sound management data.
 - The professional staff obtains the skills and training necessary to perform their duties effectively and efficiently.
 - The professional staff attempts to obtain purchasing certification.
- Training** To support these purposes and objectives, the training policy of the Purchasing Office is:
- All staff must maintain an extensive knowledge of software programs to perform effectively within each related job. They must be current on all software applications used by the office. Training courses are assigned depending on knowledge and position requirements of the individual. Staff takes advantage of computer training offered by the County before pursuing external sources.
 - Professional staff is required, as funding is available, to attend the following standard seminars:
 - Basic Public Purchasing
 - Public Purchasing Law
 - Advanced Public Purchasing
 - Specification Writing
 - Depending on availability, these courses may be substituted for other approved courses. The professional staff may continue their professional education to remain current on purchasing issues through applicable seminars as available.
 - All professional staff members are encouraged to participate in relevant training to enhance their efficiency and effectiveness in performing their duties.
 - Professional staff is encouraged to pursue professional certification through the National Institute of Governmental Purchasing or the Institute of Supply Management.

Chapter 21: Definitions

As used in this manual, the terms below are defined as follows:

Advertisement – A public notice put in a newspaper of general circulation containing information about a solicitation in compliance with legal requirements

Alternate Delivery Method – A method of procuring construction services other than “traditional” competitive bidding. Methods may include design-build, construction manager (either at risk or as agent), and job order.

Amendment/Addendum – A document used to change the provisions of a Solicitation. Addendum is the preferred term in the Construction Industry.

Annual Term Contract – A recurring contract for goods or services, usually in effect on a 12-month basis.

Auditor – Potter County Auditor and his/her designated representatives.

Best Value – The best available offer, in the county’s best interest. It is based on all factors including software cost, hardware costs, overall life cycle cost of equipment, the estimated cost or increased cost of employee training, employee productivity, installation and maintenance costs.

Bid Deposit – A deposit required of bidders to protect the county if a low bidder withdraws its bid or fails to enter into a contract. Acceptable forms of bid deposits are limited to: cashier’s check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on a US Department of the Treasury listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

Bidder – A vendor that submits a bid including anyone acting on behalf of the vendor that submits a bid, such as agents, employees, and representatives.

Bidders List – An automated list of vendors who stated in writing an interest in submitting bids for particular categories of goods and services.

Centralized Master Bidders List (CMBL) – A list maintained by the Texas Building and Procurement Commission containing the names and addresses of prospective bidders.

Change Order – A document used in construction contracts to change the contract by modifying the specifications, increasing or decreasing the cost, adjusting the time for performance or changes the goods or services to be delivered.

Commissioners Court – Potter County Commissioners Court.

Commodity Code – The accounting system classification of goods and services with a unique number assigned to each description.

Competitive Bidding – Process that allows available vendors to compete with each other to provide goods or services.

Competitive Proposal Process – Process that allows available vendors to compete with each other to provide goods and services that permits flexibility in product solicitation and negotiation in compliance with TEX. LOC. GOV'T CODE, § section 262.030.

Component Purchases – A series of purchases of component parts of goods that are normally purchased as a whole.

Consultant – A person who provides or proposes to provide advice and counsel in a specialized area.

Contract – A formal, written agreement executed by the county and a vendor containing the terms and conditions under which goods or services are furnished to the County which commits the County's funds.

Contractor – A vendor who has been awarded a contract by Potter County.

County – Potter County.

County Attorney – Potter County Attorney or his/her designated representatives.

County Clerk – Potter County Clerk or his/her designated representatives.

Customers – The county's departments and officers

Cycle Time – The time between when a purchase requisition is received in the Purchasing Office and placement of a purchase order with a vendor. Cycle time does not include the time required for delivery or the time it takes for the Purchasing Office to obtain corrections to line item accounts, commodity codes, and other necessary information.

Department Head – Any Department Head and any person authorized to act on his or her behalf.

Design-Build Contract – A single contract with a vendor for the design and construction of a facility that includes an engineer or architect and builder qualified to engage in building construction in Texas.

Design Criteria Package – A set of documents that provides sufficient information to permit a vendor to prepare a response to County request for qualifications and any additional information requested, including criteria for selection.

Department – All county and precinct offices as well as district offices when the purchases are funded even partially with county funds.

Emergency Purchase – A 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 the preserve the property of the county

Employee – Any county or precinct elected official, appointed official, or employee and any district elected official, appointed official or employee involved in a county purchase when the purchase is funded even partially with county funds, or anyone who acts on behalf of any of them.

Formal Competitive Bidding – The bidding process in compliance with the County Purchasing Act which requires approval by the Commissioners Court.

GEMS – Potter County Financial Management System which includes modules for purchasing and fixed asset management.

Goods – Any personal property purchased by the County, including equipment, supplies, material, and component or repair parts.

IT – Information Technology Department.

Items Less Than \$50,000 – Purchases of goods and services that are accounted for in the same commodity code in the County Chart of Accounts, and purchases of goods and services from a single vendor in a single purchase as defined in the County

Purchasing Act, involving an expenditure of less than \$50,000 if some or all of the costs is to be paid from county funds.

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 a bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid and includes any related costs to the county in a total cost concept and who has the financial and practical ability to perform the contract and whose past performance indicates likely compliance with all material terms of the contract.

Modification – A document used to change the provisions of a contract.

Negotiations – A consensual bargaining process in which the County and vendors attempt to reach agreement on differences in desired contract provisions or a potentially disputed matter for the purpose of reaching a mutually-acceptable arrangement.

Occupant Department – The department that ultimately uses the finished goods or services when the purchase or construction is completed, which may be different from the user department.

Official – Any elected or appointed official and any person authorized to act on his or her behalf.

Payment Bond – A surety bond executed in connection with a contract that secures the payment requirement of the contractor.

Performance Bond – A surety bond that provides assurance of a bidder's performance of a certain contract.

Pre-Bid/ Proposal Conference – A conference conducted by the Purchasing Office for the benefit of those wishing to submit a response for services or supplies required by the County which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.

Professional Services – Services directly related to professional practices as defined by the Professional Services Procurement Act, including those services within the scope of the practice of accounting; architecture; optometry; medicine; land surveying; and professional engineering.

Proprietary Information – Information provided in responses to solicitations to which a vendor claims ownership or exclusive rights and which is protected from disclosure under the Texas Public Information Act (TEX. GOV'T CODE ANN., chapter 551).

Public Works – Constructing, altering, or repairing a public building or carrying out or completing any public work.

Purchase Order – An order by the Purchasing Office 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 or an amendment to an existing contract which operates as the vendor's authority to deliver and invoice for goods or services specified, and is the County's commitment to accept the specified goods or services for an agreed upon price.

Purchase Requisition – An automated request from a user department submitted to the Purchasing Office that authorizes the Purchasing Office to enter into a contract with a vendor to purchase goods or services for the County and authorizes the Auditor to

charge the appropriate department budget and which is for internal use and cannot be used by a department to order materials directly from a vendor.

Purchasing – 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 - A person appointed by the Purchasing Board of County to make contracts on behalf of the County for: (1) erecting or repairing a county building; (2) supervising the erecting or repairing of a county building; or (3) any other purpose authorized by law.

Purchasing Board – A board composed of the judges of the district courts in the county and the county judge, who are responsible for appointing the Purchasing Agent and approving the office'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, 271.0813)
- State Catalog, (TEX. GOV'T CODE, ch. 2157 in coordination with TEX. LOC. GOV'T CODE, sections 271.101 through 271.103)
- Services and Products of Severely Disabled, (TEX. HUM. RES. CODE, chapter 122.)
- Interlocal Cooperation Agreement, (TEX. GOV'T CODE, ch. 791)
- Prompt Payment Act, (TEX. GOV'T CODE, ch. 2251)
- Bidders from other States and 5% Retainage, (TEX. GOV'T CODE, ch. 2252)
- Public Works Performance and Payment Bonds, (TEX. GOV'T CODE, ch. 2253)
- Professional Services Procurement Act, (TEX. GOV'T CODE, ch. 2254, subch. A)
- Wage Rate for Construction Projects, (TEX. GOV'T CODE, ch. 2258)
- Sales tax exemption for governmental entities (TEX. TAX CODE, sec. 151.309)
- Worker's Compensation Compliance (Workers Compensation Rule 110.110)
- Uniform Electronic Transaction Act (TEX. BUS. & COM. CODE, Chapter 43)

Purchasing Office – Potter County Purchasing Office and its staff.

Purchasing Liaisons – designated purchasing contact within each department.

Real Property – Land or buildings, improvements to land or buildings, or infrastructure.

Request For Bid (RFB) – Specifications and formal bidding documents requesting pricing for a specified good or service which has been advertised for bid in a newspaper.

Request for Information (RFI) – A general request to contractors for information for a potential future solicitation which is used as a research and information gathering tool for preparation of specifications and requirements.

Request for Proposal (RFP) – A document requesting an offer from vendors, which allows for negotiations after a proposal has been received and before award of the contract for goods and services procured in compliance with TEX. LOC. GOV'T CODE, sections 262.0295 and 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.

Request for Services (RFS) – A document that requests information about qualifications and details of services to be provided and costs for other professional services that are not covered by in the Professional Services Procurement Act, but may be exempted from competitive solicitation under the County Purchasing Act.

Responsive – A vendor who has complied with all material aspects of the solicitation document, including submission of all required documents.

Responsible – A vendor who has the capability to perform fully and deliver in accordance with the contract requirements based on consideration of past performance, financial capabilities, and business management.

Sealed Bids – Offers in response to an Invitation for Bids that is advertised in a newspaper and submitted to the Purchasing Office in a manner that conceals the price.

Separate Purchases – Acquisitions made in a series of different orders for goods and services that in normal purchasing practices that would be purchased in a single order.

Sequential Purchases – Acquisitions made over a period of time that in normal purchasing practices would be made at one time.

Services – The furnishing of labor by a contractor that does not include the delivery of a tangible end product and 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 Good or Service – A good or service that can be obtained from only one source that is purchased in compliance with TEX. LOC. GOV'T CODE, section 262.024.

Solicitation – A document, such as an invitation for bid, request for proposal, request for offers or request for qualifications, issued by the Purchasing Office that contains terms and conditions for a contract and that solicits a response from vendors to provide goods or services needed by the County in accordance with those terms and conditions.

Solicitation Conference – A meeting chaired by purchasing staff, designed to help potential vendors understand the requirements of a solicitation. Also known as a pre-bid or pre-proposal conference.

Specifications – A total description of a good or service to be purchased by the County, and the requirements the vendor must meet to be considered for the contract which may include requirements for testing, inspection, or preparing any good or service for delivery, or preparing or installing it for use.

User Department – The department from whose budget line item the contract is paid.

Vendor – A business entity or individual that seeks to have or has a contract to provide goods or services to the County.

1 - Purchasing Card Policy



PURCHASING CARD POLICY AND PROCEDURES

Date Approved: February 28, 2011

Effective Date: February 28, 2011

1. **PURPOSE**

To establish policies and procedures for procuring goods and/or services using a Purchasing Card. The purchasing card program is designed to streamline the purchasing and accounts payable process by reducing the paperwork generated by small dollar, high volume transactions, eliminating the need for purchase orders, providing immediate access to goods and/or services, and facilitating quick payment to vendors.

This policy includes procedures for the following:

- Establishing Purchasing Limits
- Establishing Allowable/Prohibited Purchases
- Security
- Charge Transaction Declines
- Merchandise Returns
- Monthly Statements and Reports
- Reconciliation
- Payment Processing
- Records Management

2. **SCOPE**

This policy applies to all Potter County departments and individual, permanent employees. All Purchasing Cards shall be governed by this policy and used in a manner that complies with State Law and Potter County policy regulating the procurement of goods and services.

3. **POLICY**

Employees who use the Purchasing Card to perform official County business will use the Card as provided in this policy

4. **DEFINITIONS**

- 4.1 **Purchasing Card** – The Purchasing Card is a commercial credit card for small dollar purchases of goods and/or services necessary for official county business. The Purchasing Card may be issued to an individual, permanent employee for purchases by the designated employee only.
- 4.2 **Purchasing Card Program Administrator** – The County Purchasing Agent will assign a designee in the Purchasing Department to serve as a single point of contact between Potter County and the Bank for general oversight of the Purchasing Card Program.
- 4.3 **Departmental Purchasing Card Coordinator** – An individual or backup approved by the Elected Official or Department Head who is responsible for administration and control of the departmental implementation of the Purchasing Card Policies and Procedures.
- 4.4 **Purchasing Cardholders** – Full-time, permanent employees that have been designated by the Elected Official or Department Head to be issued a Purchasing Card in their name for use under these policies and procedures.
- 4.5 **Bank** – The bank selected by the County to provide the Purchasing Card program.

5. **RESPONSIBILITIES**

- 5.1 It shall be the responsibility of the Purchasing Department to:
- 5.1.1 Develop policy and procedures for the use of Purchasing Cards that comply with State Law.
- 5.1.2 Administer the Purchasing Card Program, to include the following responsibilities:
- Serve as primary contact with the Bank for Purchasing Cards.
 - Serve as primary contact with the Departmental Purchasing Card Coordinators.
 - Approve/process applications for the issuance of Purchasing Cards for users in compliance with the requirements as stated in the policy.
 - Establish guidelines and criteria for transactions and cumulative dollar limits for Purchasing Cards.
 - Approve/process changes to Cardholder limits and restrictions as authorized by Elected Officials, Department Heads or the Departmental Purchasing Card Coordinators.
 - Keep a current list of Cardholders, card numbers and card limits.
 - Coordinate training on Purchasing Card usage and small purchase policies and procedures. Potential cardholders must receive training prior to receiving a Purchasing Card.
 - Review departmental compliance/submission of approved Monthly Statement reconciliations.

- Cancel and suspend cards as requested by Elected Officials, Department Heads, Departmental Purchasing Card Coordinators.
- Coordinate any system updates needed to interface with the County's accounting system.
- Review transactions for verification of small dollar purchases and price agreement opportunities.
- Cardholders are considered assistants of the Purchasing Agent for purposes of Purchasing Card use. Therefore, final authority for usage and control resides with the Purchasing Agent. The Purchasing Agent may cancel a Purchasing Card at any time without cause.
- Spending limits may be adjusted at the Purchasing Agent's discretion to accommodate emergency purchases.
- Maintains and updates Purchasing Card Guidelines.

5.1.3. Provide direction for vendor enrollment.

5.2 It shall be the responsibility of the Auditor's Department to:

- 5.2.1 Establish General Ledger hierarchy for Purchasing Card purchases in conjunction with current financial software program.
- 5.2.2 Review Monthly Billing Statement from the Bank and supporting documentation from the Departments ensuring timely payment of monthly indebtedness.
- 5.2.3 Process General Ledger interface for monthly County Purchasing Card purchases.
- 5.2.4 Review or perform necessary accounting transactions to process all departmental charges and ensure the reconciliation account zeros out monthly.
- 5.2.5 Conduct random audits of Purchasing Card transactions to act as a check on departments carrying out their responsibility for audit and compliance with State Law and County policies.
- 5.2.6 Administer all Travel transactions approving in advance transactions in excess of \$500.00.

5.3 It shall be the responsibility of all Elected Officials or Department Heads to:

- 5.3.1 Designate which employees will receive a Purchasing Card and set limits for each Cardholder's account. Cardholder limits will include monthly spending limits, number of transactions per day, number of transactions per billing cycle, and merchant category restrictions. These limits will be based on the Cardholder's purchasing requirements and will not exceed the limits established by Purchasing Card Program Administrator.
- 5.3.2 Approve all departmental transactions for processing by Auditor's Office.
- 5.3.3 Recommend suspension or cancellation of a card to Purchasing Card Program Administrator.
- 5.3.4 Notify Purchasing Card Administrator to cancel card privileges, if employee is terminated or changes positions; collection of card from employees.

- 5.3.5 Designate Departmental Purchasing Card Coordinator (and alternate) for each Department who will be responsible for the following:
- Verify that information on Requests for Purchasing Cards is correct and that Purchasing Cards are issued within the guidelines established by Purchasing Card Program Administrator. (Exhibit #1)
 - Monitor purchases made by Cardholders.
 - Enforce timely compliance of submission requirements; review receipts and Monthly Statement reconciliations for submission to the Auditor
 - Review Monthly Expense Report before submission for payables process.
 - Review Purchasing Card applications or changes to card controls prior to submission.
 - Designate a system to maintain receipts and reconcile to the Monthly Statement for each Cardholder reporting to him/her.
- 5.3.6 Designated Cardholders will be responsible for the following:
- Read and sign a Purchasing Card Cardholder Agreement (Exhibit #2) prior to being issued a Purchasing Card.
 - Keep the Purchasing Card in their possession, not allow anyone else to use the Purchasing Card issued in their name.
 - Assume responsibility for all purchases made with the Purchasing Card, adhering to this policy insuring that no unauthorized purchases are made. Unauthorized purchases could be considered misappropriation of County funds. Validate that the merchandise is received.
 - Maintain the Purchasing Card data in a secure location at all times.
 - Purchase from term contracts any items that are available on contract.
 - Inform merchant of tax exempt status; cardholder will be responsible for reimbursing the tax amount to the County.
 - Keep receipts and post online item description and account information upon receipt of statement. Cardholder will be held personally responsible for items purchased without the supporting documentation.
 - Monthly reconciliation and printing of expense report for current month expenditures.
 - Immediately report lost or stolen cards to the Bank toll-free number and the Purchasing Card Program Administrator by phone and then notify the Department Purchasing Card Coordinator on Lost/Stolen Form (Exhibit #3) to be forwarded to the Purchasing Card Program Administrator.
 - Make every reasonable effort to resolve disputed purchases with the vendor.
 - Immediately report all unresolved disputed purchases to the Departmental Purchasing Card Coordinator using the Purchasing Card Dispute Form (Exhibit #4).

6. PROCEDURES

6.1 Purchasing Limits:

- 6.1.1 Each Department will establish limits for individual Purchasing Cards and aggregate limits for combined card totals. The maximum amount of a single item purchase of supplies or materials will not exceed \$500. In all cases, a monthly maximum per card will be established by the Elected Official or Department Head.
- 6.1.2 Any purchases over the established dollar limit must be approved by the Purchasing Card Administrator. For Purchases of this nature and purchases that cannot be obtained any other way, the Purchasing Department will have an unlimited purchasing card.
- 6.1.3 Travel related purchases for airline, hotel and registrations are acceptable. Transactions in excess of \$500.00 will require 48 hour prior approval by the Auditor.
- 6.1.4 The Auditor's Department may use a designated card for the use of paying recurring monthly expenses. These expenses are not normally processed through the Purchasing Department.

6.2 Purchases Allowed with the Purchasing Card – Purchasing Cards may be used to purchase any item and/or service for immediate use not prohibited by law, this policy, or other policies approved by the Commissioners Court. The total purchase with the Purchasing Card will not exceed the limits established for that Card. All other purchasing policies remain in effect and Purchasing Cards should not be used to circumvent them.

6.3 Purchases Prohibited with the Purchasing Card:

- Personal expenditures
- Cash Advances, refunds or gift cards.
- Sales tax except in cases where State law does not exempt local governments.
- Purchases that exceed the County's policy for purchases of equipment of any type.
- Entertainment of any kind, including the purchase of alcohol or patronage of drinking establishments.
- Purchases of items /services under contract, unless purchasing from the contracted vendor or an emergency exception is granted.
- Printing
- Internet purchases without prior written approval from Purchasing Department
- Separate, sequential, and component purchases or transactions made with the intent to circumvent State Law or County policy.
- Purchases that are split to stay within card transaction limits.
- Transaction amounts greater than Cardholder's transaction limit.
- Telephone calls/monthly service
- Gasoline

- Weapons, Firearms, Ammunition
- Animals
- Consulting services.
- Inventoried assets
- Prescription drugs or over the counter medications/drugs.
- Decorations
- Hazardous chemicals or materials
- Organization Memberships, Charitable and Social Services, Associations, Civic, Social, and Fraternal.
- Purchases involving equipment trade-in.
- Other purchases specifically excluded in other County policies or by law.

The items shown above are intended to guide you in which form to use for processing payments and orders. These are not representative of all restrictions, and may change without notice. It is recommended that you contact the Purchasing Card Administrator to ensure the proper expenditure of funds.

6.4 Security – The Cardholder is responsible for the security of the card. This card should be treated with the same level of care as the Cardholder would use with his/her own personal charge cards.

6.5 Supporting Documentation for Card Purchases – All transactions must be supported by receipts or credit slips. In instances where the receipt is lost, **Cardholder** must obtain a copy at their own expense from the Bank or vendor. For purchases made over the phone or on the Internet, a logging system with unique transaction identifiers should be maintained and a faxed copy or e-mail confirmation of the order retained as the receipt. Written authorization from Purchasing Department for internet purchase must be attached.

6.6 Declined Transactions – If a Vendor receives a “Decline” response from the Bank after attempting to put through a Purchasing Card transaction, Cardholders may contact the Bank’s customer service toll free number to determine the cause for decline. It may be necessary to contact the Purchasing Card Department Coordinator with the following information for resolution:

- Account number
- Business where decline occurred
- Total transaction amount of the decline
- Date the decline occurred

After determining the reason for the “Decline” it may be necessary for the Purchasing Card Department Coordinator to contact the Purchasing Card Administrator for temporary or permanent changes to the Cardholder’s control limits to process the transaction.

6.7 Using the Card – A need for an item and/or service is established when it is not readily available through a County contract. In making a purchase, the Cardholder must abide by the following rules:

- 6.7.1 The Cardholder must ensure that the item or service purchases is not restricted under paragraph 6.3
- 6.7.2 In purchasing an item or service the Cardholder must ensure that sales tax is not included in the purchase price before issuing payment with the Purchasing Card.
- 6.7.3 If a supplier does not accept the Purchasing Card, the Cardholder should forward a completed Dispute Form (Exhibit #4) to the Purchasing Card Program Administrator marking “Non-Acceptance” as the reason for the dispute (Exhibit #4.)
- 6.7.4 The Cardholder must retain the purchase receipt and attach it to the Monthly Expense Report (Exhibit #5). After being signed by the appropriate Elected Official or Department Head, the Monthly Expense Report, will then be attached to the monthly bank statement and submitted to the Purchasing Department.

6.8 Purchasing Return – The Cardholder is responsible for obtaining a credit memo from the Vendor when merchandise purchased with the Card is later returned to the Vendor for any reason. The credit memo will be attached to the monthly log along with the sales receipt.

6.9 Monthly Bank Statements and Reports – Each department will obtain monthly Cardholder detailed statements. When the reconciliation process is complete, the expense report will be certified, signed by the Elected Official or Department Head and returned to the Purchasing Department **no later than the 10th day** after the end of the billing cycle. Failure to meet timely submission requirements from Cardholders may cause suspension or cancellation of Purchasing Cards as authorized by Commissioners Court. The Auditor’s office will reconcile all expense reports against the monthly payment made by Automated Clearing House. The Purchasing Card Program Administrator will review purchases to assure proper purchasing procedures are adhered to.

6.10 Reconciliation of Card Purchases –

- 6.10.1 Upon receipt of the Monthly Statement, the Department Purchasing Card Coordinator is responsible for ensuring that the Monthly Statement is reconciled with the purchase receipts within **3 days of receiving the Monthly Statement**.
- 6.10.2 The Elected Official or Department Head is responsible for reviewing receipts and Monthly Statement reconciliations and sending them along with a computer generated Expense Report to the Purchasing Department **no later than the 10th day** after the end of the billing cycle.

6.11 Records Management – The Departmental Purchasing Card Program Coordinators must maintain all original receipts in a secure location until they are reconciled to the Monthly Statement. Departmental Purchasing Card Coordinators must maintain the logs of Purchasing Card transactions, receipts and records of reconciliations. Records from each billing cycle should be kept together.

6.12 Lost or Stolen Purchasing Cards – When it is determined that a Purchasing Card has been lost or stolen, **IT IS IMPERATIVE TO FIRST CANCEL THE CARD WITH THE BANK BY CALLING THE BANK’S TOLL-FREE NUMBER.** In addition, the Cardholder must also notify the Purchasing Card Program Administrator of the loss by phone and then complete a Purchasing Card Lost/Stolen Card Form (Exhibit #3) and forward it to the Cardholder’s Elected Official or Department Head, the Departmental Coordinator and the Purchasing Card Program Administrator.

Once a Purchasing Card is discovered lost or stolen, it is imperative to cancel the card immediately. The County is liable for all charges until the card is reported lost or stolen. **Thus, the Cardholder may be responsible for all charges made against the Purchasing Card from the time it is lost or stolen until the time the Bank is notified, if the Cardholder fails to immediately notify the Bank upon discovering the loss or fails to discover the loss within a reasonable amount of time.**

6.13 Request for Issue of a Purchasing Card or Making Changes to Existing Accounts – To request a new Purchasing Card or to make changes to an existing Purchasing Card account, a Purchasing Card Request/Change Form (Exhibit #1) should be completed by the requesting employee and submitted to the appropriate Elected Official or Department Head for approval. Following approval, the form should be forwarded to the Purchasing Card Program Administrator.

6.14 Unauthorized Use of the Purchasing Card– Any purchases that the Purchasing Card Program Administrator deems prohibited as defined in paragraph 6.3 will be sent back to the Cardholder for justification and/or explanation. If any prohibited charges appear in the Cardholder’s Monthly Transaction Log or Statement Report, the following may occur:

- The Purchasing Card Program Administrator will investigate all circumstances surrounding alleged misuse of the Purchasing Card and in cases where there is evidence of a procedure or policy violation; refer that information to the appropriate authority for investigations and/or disciplinary action.
- Termination of employment and forfeiture of the Purchasing Card are potential disciplinary actions for improper use of the card.
- In those cases where there is evidence of negligent use of the Purchasing Card, but no fraudulent acts have been committed, the Cardholder will be required to surrender the Purchasing Card with all further privileges revoked.

Any employee having knowledge of violations to this procedure or any other procedure or policy governing the use of the Purchasing Card must immediately report such activity to the Purchasing Card Program Administrator.

The Purchasing Card may be suspended or terminated if a Purchasing Cardholder is suspected of fraud, theft, or illegal drug use. Should the suspicion prove founded, appropriate action shall be taken in accordance with existing County policies and procedures, including but not limited to referral to the appropriate law enforcement agency for investigation and, if warranted, prosecution.

- 6.15 Disputed Items – Disputes, if possible, should be resolved promptly between the Cardholder and the Vendor. Cardholders should raise disputes immediately. As failure to do so will result in an authorized purchase that the department is responsible for paying even though the charge is incorrect. If the dispute cannot be resolved within 10 days, the Cardholder should submit a Dispute Form (Exhibit #4) to the Purchasing Card Program Administrator. A charge should not be disputed on the current statement if it was returned for credit after the billing cycle is closed. The credit should be reported on the next statement with a notation being made on the current statement that there is a disputed charge and expected credit.
- 6.16 Termination Clause – The Purchasing Card is issued to an employee for the County’s convenience and may be terminated at any time by the County Purchasing Agent. Purchasing Card privileges may be cancelled for non-compliance with County policies and procedures. Transfer, resignation, or terminations of employment are grounds for cancellation of the Purchasing Card.

It is important to cancel a card immediately upon an employee’s separation from employment. The Bank or the Credit Card Recovery Program will not cover any charges incurred between the employee’s termination date and the date the card is cancelled. The department will be responsible for payment of charges incurred by an employee no longer working in that department; if a delay in canceling privileges resulted from the department’s actions.

7. LEGAL REFERENCES

- 7.1 This policy statement of the Purchasing Agent is pursuant to Texas Local Government Code section 262.011(l) & (o).
- 7.2 County Purchasing Act, Texas Local Government Code, Chapter 262, Subchapter C.

By this policy, the Potter County Commissioners Court authorizes the use of County provided purchasing cards. The purpose of the purchasing cards is to provide the County with an efficient and controllable method of making small dollar, high volume commodity and service purchases. The purchasing card will be primarily used in place of small purchase orders that are issued on a routine basis. This card policy is not intended to replace, but rather supplement existing purchasing and other County policies.

The County Purchasing Agent will be the Purchasing Card Program Administrator and is responsible for all activities related to the County Purchasing Card Program.

The Purchasing Card Policy and Procedures was adopted by the Potter County Commissioners Court.

REQUEST FOR PURCHASING CARD
EXHIBIT #1

TO: David Harder, Purchasing Card Program Administrator

FROM: _____
(Department)

SUBJECT: Request for Purchasing Card

I request the following employee be issued a County Purchasing Card for the purpose of making small-dollar purchases in the normal course of authorized Potter County business.

Full Name of Employee (print): _____

Employee Signature: _____

Employee Title: _____

Single Item Purchase-Supplies or Material (**Not to exceed \$500**): _____

Daily Transaction Limit: _____ # of Transactions

30-Day Limit _____

Restrictions: _____

The card will not be used for travel related items. (i.e. airline tickets, rental cars, hotels, etc.)

REQUESTED BY: _____
Signature of Elected Official/Department Head

APPROVED BY: _____
Signature of Purchasing Card Administrator

Copy: Designated Cardholder
Elected Official/Department Head

PURCHASING CARD CARDHOLDER AGREEMENT
EXHIBIT #2

I, _____ hereby agree to comply with the **purchasing card** policy and procedures and the following terms and conditions regarding my use of the card. As a cardholder, I have read and understand the **Potter County Purchasing Card Policy and Procedures**.

1. I understand that I am being entrusted with a valuable tool, the purchasing card. I will be making financial commitments on behalf of Potter County. I will obtain the best value for Potter County by using the card wisely and with discretion.
2. I agree to use this card for official approved purchases only. I fully understand that misuse or abuse of the card will result in revocation of the card and appropriate disciplinary action which may include termination of my employment. I UNDERSTAND THAT IMPROPER USE OF THE CARD OR LACK OF RECEIPTS MAY RESULT IN FUNDS BEING WITHHELD FROM MY PAYCHECK. I also agree to attend training on the use of this card as prescribed by Purchasing Card Program Administrator.
3. Policy violations include, but are not limited to:
 - Expenditures for personal purposes;
 - Cash advances or refunds;
 - Expenditures for entertainment, including but not limited to the purchase of alcoholic beverages;
 - Purchases under contracts, unless an emergency exception is granted;
 - Separate, sequential, and component purchases or transactions made with intent to circumvent State Law or County policy;
 - Transaction amounts greater than cardholder's limits;
 - Expenditures of meals or other travel related expenses while traveling on County business;
 - Failure to submit proper documentation with each monthly statement, and;
 - Allowing the card to be used by someone else
4. I agree to return the card immediately upon request or upon termination of employment (including retirement and resignation). Should I be transferred, qualify for extended leave or undergo an organizational change which causes my duties to no longer necessitate the use of the card, I agree to return it immediately and arrange for issuance of a new card as may be appropriate.
5. If the card is lost or stolen, I agree to immediately notify the Purchasing Card Program Administrator both verbally and in writing.

I understand and agree that my use of the purchasing card is subject to the following specific purposes or restrictions:

Employee Signature	Date	SS No.	Department
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Elected Official/ Department Head	Date	Purchasing Card Program Administrator	Date
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Transaction Limit: \$ _____ Monthly Limit: \$ _____

Submit to Purchasing Card Program Administrator for Authorization

PURCHASING CARD LOST/STOLEN REPORT
EXHIBIT #3

TO: David Harder; Purchasing Card Program Administrator

FROM: _____
(Department)

Card Number _____

Full Name of Employee (print): _____

Employee Social Security Number _____

Employee Signature: _____

Employee Title: _____

Date of Loss _____

Date Stolen _____

Details: _____

Copy: Designated Cardholder
Elected Official/Department Head

CARDHOLDER STATEMENT OF DISPUTED ITEM(S)
EXHIBIT #4

RE: _____

CARDHOLDER NAME: _____ CARD NUMBER: _____

MERCHANT NAME: _____ DISPUTED AMOUNT: \$ _____

I dispute the charge(s) described herein as follows: [Check Appropriate Box(es)]

- I certify that the charge listed above was not made by me nor were the goods or services represented by the above transaction received by me or by a person authorized by me.
- I do not recognize the transaction as listed above. Please inform me of merchant name and description of merchandise purchases.
- Although I did engage in the above transaction, I dispute all or part of the charge in the amount of \$ _____.
- I have contacted the merchant and requested a credit adjustment that I did not receive or was not satisfactory.
- I have been charged twice for the same transaction. Posting dates: _____ and _____
- A credit slip was listed as a sale on my statement.
- The amount of the sales slip was increased from \$ _____ to \$ _____. Enclosed is my copy of the sales slip prior to alteration.
- I received a price adjustment (credit slip) on the above transaction, and it has not appeared on my statement. Enclosed is a copy of the credit memorandum.
- Non-Acceptance
- Other, please explain completely.

I am disputing the charge because: _____

Designated Cardholder Signature: _____

Daytime Phone: _____

Date: _____

Fax Dispute Form to: David Harder
349-4825

Expense Report

JPMorganChase

Posting Date: 11/06/2006 Thru 12/05/2006

C1880-POTTER COUNTY
900 S POLK SUITE #604
AMARILLO, TX 79101-3412 USA
XXXX-XXXX-

Posting Date	Transaction Date	Description	Amount
Card Transactions:			
11/20/2006	11/16/2006	ELLIOTT RUSSELL OFFICE AMARILLO, TX	18.48
Expense Description: glue sticks Cost Allocation Fields: Fund: 110, Department: 1220, Account: 74000, Location: 1220, Project: 0000			
11/20/2006	11/16/2006	ELLIOTT RUSSELL OFFICE AMARILLO, TX	27.98
Expense Description: two micro date stamps Cost Allocation Fields: Fund: 110, Department: 1220, Account: 74000, Location: 1220, Project: 0000			
11/29/2006	11/27/2006	ELLIOTT RUSSELL OFFICE AMARILLO, TX	31.16
Expense Description: three boxes manila file folders Cost Allocation Fields: Fund: 110, Department: 1220, Account: 74000, Location: 1220, Project: 0000			
Card Subtotal			77.62
Non-Card Transactions:			
Non-Card Subtotal			0.00
Grand Total			77.62

Note:
(S) Indicates a split transaction
S Indicates supervisor reviewed
CH Indicates cardholder reviewed

Signed _____ Date _____ Authorized _____ Date _____