



**PURCHASING POLICY MANUAL
CITY OF CARROLLTON**

March 2024

INTRODUCTION

Purchasing for the City of Carrollton ("City") is defined as the centralized procurement and distribution of materials, supplies, equipment and services at the lowest possible cost consistent with the quality needed for the effective operation of the City of Carrollton.

The goal of Purchasing is to provide assistance to departments within the City in securing these materials and services in the most efficient and economical way. Purchasing can only achieve this through cooperation with each City department and the vendors.

Each City employee responsible for acquiring materials / procuring services must be familiar with and adhere to the purchasing procedures in this policy. A proper understanding of the City's purchasing processes and procedures can save the City time and money. This policy manual will not answer all questions, but it will be an aid in helping you to secure materials/services needed to operate each department/division.

CODE OF ETHICS

The City requires its suppliers and service providers to meet our ethical expectations to the extent practicable by law. The City requires ethical conduct from those who represent the City and those who do business with the City. It is the policy of the City to ensure that the following ethical principles govern the conduct of all individuals and entities involved in the City's procurement process, including, but not limited to, solicitations for bids for goods or services, request for proposals (RFPs), request for qualifications (RFQs) and other procurement processes established in this policy. The City Procurement Ethics Policy shall be committed to and upheld by any individual engaged with this process. It is a breach of the public trust to subvert the procurement process, including the competitive bidding process, whether by bribes, kickbacks, preferential treatment, or any other means.

The nature of purchasing functions makes it critical that all involved with the process remain independent, free of obligation or suspicion, and completely fair and impartial. Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules, and responsibilities to govern the behavior of purchasing employees and those with delegated purchasing authority. Credibility and public confidence are vital throughout the purchasing and contracting system. It is with this in mind that the related Purchasing Policy Manual is set forth. This document defines the ethical standards of conduct required of the City's Purchasing Division, the City's employees, suppliers, potential suppliers, and employees of other agencies when acting under the authority delegated by the City.

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I. PURPOSE

The purpose of this policy manual is to establish a centralized purchasing function and establish guidelines for the procurement of supplies, materials, and services, which include professional, and construction related services for the City.

This policy manual shall establish internal control procedures that all vendors and City personnel are required to follow. A system of internal control is required to assist in the prevention of any unauthorized purchases by the City and collusion by vendors.

This policy shall further establish guidelines to provide assurance to the citizens and taxpayers of the City that the best use of the available City resources occur. This policy is intended to promote competition among bidders and vendors interested in providing products and services to the City.

The authority for this policy is established by the City of Carrollton, Texas Local Government Code, Texas Government Code and other applicable Texas and federal statutes. Enforcement of this policy and its provisions shall fall under the Finance Department.

In the event any portion of this policy no longer meets legal requirements due to legislative changes, this policy will abide by the law then in effect. All sections of the policy in conflict with new statutory requirements will be considered to have been repealed.

II. DUTIES OF THE PURCHASING DIVISION

- Assist departments in purchasing or contracting of City supplies, equipment, and services.
- Assist departments in obtaining supplies/equipment/services in appropriate quantities and time frame to prevent interference with services provided while receiving maximum return for the dollars expended.
- Encourage competition and endeavor to obtain full and open participation in the bid process by all responsible vendors.
- Maintain confidentiality of all information used in the bid process to be consistent with the State's open records law.
- Secure for the City the benefits of research done in the field of purchasing by other governmental agencies and private businesses. Part of this process is keeping abreast of all cooperative purchasing opportunities and networks available to reduce costs.
- Promote standardization whenever possible to include general conditions, specifications, quality standards, performance standards, equipment and supplies.
- Work with departments/divisions to provide specifications with each bid request clearly identifying quantity/quality required and providing a basis for proper bid evaluation.
- Implement improved methodology, procedures, and innovations in the Purchasing department.
- Conduct sale of surplus property and salvage material to be disposed of by the City.
- Instruct and advise City personnel on proper purchasing procedures.
- Ensure compliance with all federal, state, and local laws and regulations.

- Responsible for coordinating and bidding all purchases over \$50,000, (with the exception of engineering related developments) and insuring compliance to all of the aspects of state law that applies to these bids. Also responsible for monitoring and approving all purchases over \$3,000 to insure price competitiveness and state law compliance.
- Coordinate with each department the process to obtain City Council approval for all single or cumulative purchases over \$50,000.
- Manage contracts for city-wide goods and services.
- Manage the purchasing card program including setting up new employee accounts, troubleshooting fraud notification or problems with vendors accepting purchasing cards for city credit cards, and monitor all charges for compliance to the purchasing card policy.
- Assist, train, and update account accessibility for all departments in the operation of the procurement components of the City ERP financial software and coordinate all requisitions and purchase orders to ensure compliance to city policy and state law.

III. DUTIES OF THE BUSINESS UNITS

- Responsible for purchasing most equipment/supplies less than the state law sealed bid threshold of \$50,000.00 in compliance with the Purchasing policy.
- Responsible for obtaining supplies, equipment, and services that will receive the maximum return for dollars expended and not create unnecessary emergency order situations. Along these lines, the using department is responsible for providing the proper number and type of quotes.
- Encourage competition and endeavor to obtain full and open participation in the bidding process by all responsible vendors.
- Maintain confidentiality of all information used in the bidding process as required by open record laws.
- Utilize Purchasing to answer any procedural/bid award questions by the vendor.
- Work with Purchasing to promote standardization whenever possible in areas such as general specifications, quality standards, performance standards, and to coordinate with other departments whenever possible.
- Work with Purchasing to provide clear, descriptive, and concise information for each bid request. Clarity in regard to the desired quantity, quality and proper bid evaluation criteria should also be included.
- Check to be sure that the appropriate budget line-item information is correct and budgeted funds are available before any purchase is made or requested for the sealed bid process.
- Encourage, remind, and instruct all employees involved in the purchasing/bid process to always nurture, maintain and promote good vendor relationships.
- Evaluate vendor bids to determine compliance with specifications and recommend the vendor to be awarded the bid. Be aware of any public information requirements for bid awards and make the information available as prescribed by state law.

- Submit requisitions for purchase orders **prior** to making a purchase. This includes having all appropriate documentation, such as contracts or quotes, submitted at the time the requisition is created and included as an attachment with that request.
- Create invoices for purchases made and ensure approval of any invoices within 30 days of receipt.
- In accordance with Administrative Directive 28, Use of Technology Resources, all technology related procurements must be approved in advance by IT.

IV. GOVERNING LAW AND STATUTES FOR PUBLIC PROCUREMENT

This policy manual is primarily based on state law as found in Texas Local Government Code Chapters 252 and 271; and Texas Government Code Chapters 791, 2254, and 2269. Any changes in state law will automatically supersede City policy. Copies of the Codes are available in the Purchasing Division or in the City Attorney’s office.

1. TLGC 252: COMPETITIVE BIDS OR PROPOSALS

Cities must competitively bid out any goods or services with a cumulative total spend equal to or greater than \$50,000. Texas Local Government Code, Sec. 252 defines the policy and procedures of public procurement.

Cities making expenditures of more than \$3,000, but less than \$50,000, must contact at least two (2) disadvantaged businesses (HUB vendors) on a rotating basis. If the list fails to identify a disadvantaged business in the county (or three counties as is the case in Carrollton) in which the city is located, the city is exempt from this requirement. In this case, contact with three (3) different vendors is required. Violations of this aspect of the law are a Class C misdemeanor.

The state of Texas’ Purchasing Division is called the Texas Procurement and Support Services (TPASS), and the website to review HUB vendors is <https://comptroller.texas.gov/purchasing/vendor/cmb/>. Because this website can be very confusing, Purchasing staff are available for personalized training to demonstrate the use of this internet site. Please contact purchasing@cityofcarrollton.com for assistance.

2. GENERAL EXEMPTIONS

Direct exemptions from the competitive bidding requirements as identified in the Texas Local Government Code Section 252.022, as amended, include but are not limited to:

- a. **Emergency Purchases:** Procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality’s residents or to preserve the property of the municipality. Procurement is made necessary to preserve or protect the public health or safety of the municipality’s residents. Procurement necessary because of unforeseen damage to public machinery, equipment of other property
- b. **Personal Services:** Services involving the personal, intellectual, or manual labor of an individual; a service performed personally by a particular individual for the benefit of another.
- c. **Professional Services:** Services performed within the scope of practice (or provided in connection with the employment of a licensed person in the areas of practice) of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising or professional nursing.

There may be discretionary services, those not listed by statute but require professional or otherwise skill-based certifications to do the work.

- d. **Planning Services:** Services primarily intended to guide governmental policy to ensure the orderly and coordinated development of land uses.
- e. **Sole Source Purchases:** Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or rare books; purchase of electric power, gas, water, and other utility services and the purchase of captive replacement parts or components for equipment.
- f. **Library Purchases:** Rare books, paper, and other library materials for a public library.
- g. **Cooperative Purchases:** Supplies, equipment, or services utilizing an approved cooperative purchasing program which meets all applicable laws and regulations (see **Section “TLGC 271: COOPERATIVE PURCHASES”**).
- h. **Interlocal Purchases:** Supplies, equipment, or services utilizing an approved interlocal purchasing agreement which meets all applicable laws and regulations as described in *Texas Local Government Code 271, Subchapter F, Sec. 271.101, et seq.*
- i. **State Purchasing Programs:** Supplies, equipment, or services, including technology, utilizing purchasing programs managed by the Texas Statewide Procurement Division’s Cooperative Division. These programs include term contracts, Texas Multiple Award Schedule (TXMAS) purchases, and Department of Information Resources.
- j. **Personal Property:** Property sold a) at an auction by a state licensed auctioneer; b) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; c) by a political subdivision of this state, or an entity of the federal government; or d) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under *Chapter 391 of Texas Local Government Code.*
- k. **Retail Sale:** Goods purchased for subsequent retail sale by the City.
- l. **Advertising:** Advertisements, other than legal notices.

Exemptions must be reviewed by Purchasing prior to use. Purchasing staff may question the use of exemptions and seek all necessary documentation related to the request to determine if the purchase meets the criteria given above.

If an exempt process is used, and the total cost of services is greater than \$50,000, Council approval is required to enter into a contract.

3. TLGC 271: COOPERATIVE PURCHASES

Cooperative purchasing occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.

- a. **Interlocal Agreement Purchases or Inter-Agency Agreements:** *Texas Government Code Chapter 791, Interlocal Cooperation Act,* allows local governments to contract

with and between one another, to provide governmental functions and services, as well as join in contracting with other entities to provide goods and services.

- b. State Contract Purchases:** Texas Local Government Code Chapter 271, Subchapter D, § 271.081-271.083, State Cooperation in Local Purchasing Programs, allows local governments to purchase items on the State's purchasing contracts and allows the State to solicit bids on the local government's behalf when considered feasible by the State.
- c. Piggybacking:** Piggybacking occurs when one governmental agency purchases for itself and for others as a convenience to the others. Both governmental agencies should protect themselves by establishing an agreement in writing, even when the arrangement is informal. The agreement should specify the duties and responsibilities of each party.
- d. Joint Purchases:** Joint purchasing occurs when two or more governmental agencies join to purchase one or more items. This may involve each entity handling part of the administrative duties or agreeing to have one entity handle the transactions under the guidance of other entities. All parties to a purchase must agree to the product specifications so that the result will be a satisfactory purchase for all involved entities.

Purchasing will help locate cooperative options upon request, but the requesting department is responsible for verifying that a current cooperative remains available for use throughout the life of the purchase. The department is also responsible for verifying that any resulting purchase orders and invoices reflect the pricing and terms contained in the referenced cooperative and, in the case of negotiable cooperatives such as State of Texas DIR, the vendor, pricing, scope must be detailed prior to issuance of the Purchase order.

4. TLGC CHAPTER 2254: PROFESSIONAL AND CONSULTING SERVICES

Texas Local Government Code 2254 is the statute that governs the procurement of professional and consulting services. This Texas statute outlines how a city is to purchase services that are defined as professional services.

According to the statute, professional services are for only the following items. If a service is not outlined in this law, then the normal bid statute Chapter 252 applies.

- a.** A certified public accountant.
- b.** An architect.
- c.** A landscape architect.
- d.** A land surveyor.
- e.** A physician, including a surgeon.
- f.** An optometrist.
- g.** A professional engineer.
- h.** A state certified or state licensed real estate appraiser.

To procure the services above, a Request for Qualification (RFQ) is required. The steps to follow for a RFQ are different from Chapter 252 and these steps are listed below. In general, the RFQ document

must ask for a vendor to submit their qualifications to do the work stated in the document, and price may not be a determining factor when initially grading responding vendors.

The steps for an RFQ process are:

- a. Use the Request for Qualifications (RFQ) process to solicit qualifications packets from interested vendors.
- b. Review and evaluate qualifications based on the steps outlined in the posted RFQ document.
- c. Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications.
- d. Attempt to negotiate with that provider a contract at a fair and reasonable price.
- e. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:
 - Formally end negotiations with that provider.
 - Select the next most highly qualified provider.
 - Attempt to negotiate a contract with that provider at a fair and reasonable price.

Contracts for professional services are subject to the same City Council approval as stated above if the total cost of the service, including any renewals, exceeds \$50,000.

Note: There may be professional services not defined by Texas Government Code 2254 but fall under the general professional services in Local Government Code 252. These types of professional services would be considered discretionary rather than statutory (by statute). The basis for considering a professional service is whether or not the vendor needs a license, certification, or some other professional credentials to complete the work.

An RFQ process can still be used for these services as described above. Purchasing should be consulted on the use of an RFQ for discretionary professional services and to determine if that is the appropriate procurement method. If an RFQ process is used, the basis for the award should be the qualifications of a vendor. However, the award of a discretionary professional service may consider cost as part of the award process.

Consulting Services will be treated in a similar manner to professional services were applicable. Specifics of what constitutes consulting services are defined in Texas Government Code 2254.021.

5. LGC CHAPTER 2269: CONSTRUCTION SERVICES

This chapter applies to a public work contract made by a governmental entity authorized by state law to make a public work contract. "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

- a. **Competitive Bidding:** Construction contracts are bid on using a competitive bid process. "Competitive bidding" in the context of Texas Government Code 2269 shall be used for governmental entity contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Except as otherwise provided by Texas Government Code 2269.101 or other laws, a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

A competitive bid is the default for most construction projects. However, a city may award a construction contract using methods other than competitive bidding. The type of bid must be selected before advertising and determine which method provides the best value for the governmental entity. Instead of awarding based on price and other factors, the city shall base its selection among offerors on applicable criteria listed for the method used (methods listed in Texas Government Code 2269.151, .201, .251, .301, .353, and .403). Selection using these other methods will be based on:

1. The criteria that will be used to evaluate the offerors;
2. The applicable weighted value for each criterion; and
3. A detailed methodology for scoring each criterion.

All documents used as the basis of selection will need to be made public not later than the seventh day after the date the contract is awarded. Purchasing will post relevant documents on in the bid page of the electronic bid software and maintain selection documents in the electronic project folders.

Bonds will be needed for construction projects bid under Texas Government Code 2269. Alternatively, the use of bonds as a requirement for a bid will make the procurement method used follow Texas Government Code 2269, including award and public information requirements.

V. PROCUREMENT METHODS

When required by this Policy, Purchasing will work with Departments to determine the allowable method of procurement based on the nature of the procurement. The below procurement processes are subject to the requirements of Texas Local Government Code Section 252 – Purchasing and Contracting Authority of Municipalities:

a. Informal Quote Requests (IQR)

Informal process used for the purchase of goods or services not to exceed \$50,000. Quotes can be obtained for one-time purchases or for the establishment of an annual contract under \$50,000. If the total cost of service exceeds \$3,000, then two (2) HUB/DBE vendors who can provide the goods or services and found on the State of Texas Consolidated Master Bidders List (CMBL) must be solicited. Award is made to the vendor providing the lowest bid or best value. Negotiations are not permitted.

b. Sealed Bid / Sealed Bid Best Values (SB/SBV)

This method is used for one-time purchases or for the establishment of an annual contract if there is a continuous need to purchase the same goods or services totaling over \$50,000. The award is made to the lowest responsive and responsible bidder, or to the bidder providing the best value as determined by the use of other criteria and evaluations, in addition to price, as listed in the bid documents. Negotiation of pricing or changes after the sealed bids are opened is not permitted.

c. Request for Proposal (RFP)

This method is used for the purchase of goods or services used for one-time purchases or for the establishment of an annual contract for goods and services at any dollar threshold, where factors other than price are considered in the award process. Negotiations are permitted with the most qualified firm. If a successful contract cannot be negotiated with the most qualified firm, the City shall formally end negotiations with that provider, select the next qualified firm, and begin negotiations, and continue this process until successful negotiations are completed.

The contract must be awarded to the proposer who is determined to be the most advantageous to the City, considering the relative importance of price and other evaluation factors included in the RFP.

The below procurement processes are subject to Texas Local Government Code Section 2254 – Professional and Consulting Services (Sub-chapters A and C) and Section 2269 – Contracting and Delivery Procedures for Construction Projects, respectively:

a. Request for Qualifications (RFQ)

This method is used for the selection of the most qualified firm to perform a pre-determined scope of services, where set or contingent fees must be considered. Examples include, but are not limited to: professional engineering, architecture or land surveying services, consulting services and legal services unless authorized by statute, price cannot be disclosed or considered during the evaluation process. Negotiations are permitted with the most qualified firm only. If a successful contract cannot be negotiated with the most qualified firm, the City shall formally end negotiations with that provider and either end the current process or select the next highest ranked firm and continue this process until successful negotiations are completed.

b. Construction Services

Construction procurement, unless otherwise specified, refers to establishing a contract for constructing, altering, or repairing a public building or carrying out or completing any public and civic works projects. These bids must be done as a competitive sealed bid unless authorization is given, and determined prior to advertising of the bid, of an alternative bid method that provides the best value for the city (Texas Local Government Code Sec. 2269.056).

Construction bidding has a stricter post-award process and requires cities to be more transparent with how selections are made. Although bids, proposals, and quotations received from vendors shall not be divulged to other bidders until after the award has been made, the City has an obligation to make the selection process (e.g. the evaluation documents and anything else related to the selection of a vendor) available within **seven (7) days to thirty (30) days** of Council approving the contract. This requirement is in accordance with and subject to the Texas Public Information Act, Texas Government Code, Section 552.104 and Texas Government Code, Chapter 2269, Subchapters C, D, E, F, G, H, and I.

c. Emergency Purchases

Emergency purchases are necessary to address an exigent situation or calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality. In short, when a true emergency occurs, the need for an informal or formal bid process will be eliminated.

An emergency purchase can be resolved by either use of a p-card or by a purchase order. If a p-card is used, the department must request the necessary transaction and spend limit increases from the P-Card Administrator and maintain all appropriate receipts and records for an audit following the resolution of the emergency.

Note: The use of a p-card for an emergency purchase will be highly scrutinized and therefore should only be used when time is a factor and under specific circumstances. Please contact Purchasing to discuss any specifics of p-card use during an emergency.

If a purchase order is used, the requisition process will be used and expedited. Appropriate comments and documents will be needed with the request – these will be used post-emergency to ensure compliance with statute once the emergency ends.

In the event the emergency exceeds \$50,000, an agenda must be submitted to City Council prior to payment for the products or services purchased. If the product or services are under \$50,000, likewise obtain the Department Director's approval and complete the requisition as usual. Be sure to include a note in the City's ERP system indicating the nature of the emergency.

If you have any questions as to whether your situation constitutes a true emergency according to state law, please contact the Purchasing department.

Note: Emergencies due to neglect or improper planning are not emergency purchases as defined by Texas statute; therefore, not exempt from informal or formal bid processes and should be carried out by one of the methods described. Typical examples of emergencies due to improper planning are:

1. Depletion of stock due to lack of planning.
2. Building or equipment needing repairs for some time, suddenly becoming an emergency overnight.
3. Orders of materials for projects, most of which must be planned weeks or months ahead of time, requested just before desired use.

d. Sole Source Purchases

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by Local Government Code Section 252.022 (a) 7.

Purchases made using the sole-source exemption have a high bar to justify. Departments should use this designation with care and be willing to verify the claim if asked by Legal, Purchasing, or an auditor. At a minimum, departments will need to provide a sole source letter from the vendor explaining and fully describing the conditions which make the supplier a "sole" source. Purchasing will review the sole source, consult with Legal as needed, and decide on the validity of the sole-source request.

Other verification requirements may apply based on the content of the letter and any questions Purchasing, Legal, or an auditor have during the review. The purchase must be approved before placing an order and all sole source purchases over \$50,000 must be approved by City Council prior to a requisition being prepared. Consultation with Legal and Purchasing should be done prior to a City Council agenda being written.

Note: Purchasing should be notified first regarding a sole source request and the appropriate documents will need to be submitted to Purchasing for review. Staff will validate that the purchase is truly available from only one source and no purchase can be made until validation is complete and approval given. If a purchase is made under this exemption, and it's not verified a sole source, that constitutes a violation of state purchasing law.

e. Cooperative Purchasing

Details about Cooperative Purchasing can be found in this document in **Section IV. Governing Law & Statute for Public Procurement, (B)**.

Purchasing can help source cooperatives and shall be contacted to ensure compliance with the appropriate laws and regulations and to verify compliance with the terms of the cooperative agreements.

VI. PURCHASING PROCEDURES

The following methods may be used to purchase and pay for goods and services for the City and are described in detail on the following pages.

a. Competitive Bidding

The most common way to procure goods and services worth more than \$50,000 is to do a competitive bidding process. This process will follow a similar path and include the following steps:

- 1. Advertising Requirements:** For all formal proposal solicitations, notice must be given of the time and place at which the proposals are due. The legal notice must be published at least once a week for two consecutive weeks in the city's official newspaper or in an online version of the official newspaper. The date of the first publication must be before the fourteenth (14th) day before the proposal due date.

Advertising is not required for informal quote requests (IQR) under \$50,000 or exempt purchases as defined by [Texas Government Code 2254](#).

Advertising should be done prior to a bid being posted to ensure that interested vendors are informed of a bid in a uniform fashion.

- 2. Bid Specifications:** A specification provides an accurate description of a particular commodity or service to be procured. The City specifications, when set forth, shall define the requirement and convey the same meaning to all parties concerned, i.e., the user, purchaser and vendor. Federal and standard specifications shall be used whenever possible.

The specifications describing supplies, materials and equipment to be bid through Purchasing will be developed primarily by the requesting department with the

assistance of Purchasing as required. Final approval of all solicitation packages is at the discretion of Purchasing.

- 3. Opening and Award:** Submitted bids and proposals will be opened in the City's Procurement Portal. Vendors have the option to request and attend an in-person opening or via an electronic method. All vendors submitting bids and proposals are invited to attend these bid openings, as well as City personnel representing the division/department and other interested parties.

Bid / Proposal due dates are absolute. Late bids / proposals will not be accepted in the City's bidding software after the deadline has passed. The City will return physical late bids / proposals unopened. Bids / proposals may be withdrawn at any time prior to the official opening. Bids / proposals may not be altered, amended or withdrawn after the official opening without the recommendation and approval of Purchasing.

Bids and proposals may be awarded in multiple ways. The most common include:

- **Evaluation of Bids:** Purchasing, and other City personnel as required, will evaluate all competitive bids, proposals, and/or offers received in accordance with the evaluation criteria established and included in the solicitation documents. If necessary, an evaluation team will be established.
 - **Lowest Responsive and Responsible Bidder:** This is the common "low bid" and is defined by the submitter meeting the requirements below:
 - A **responsive bidder** is defined to be one who submits a completed sealed bid packet within the stated time deadline and in accordance with the bid specifications.
 - A **responsible bidder** is defined to be one who demonstrates specific selection criteria responses that define whether the company can successfully deliver the supplies, equipment, or services.
 - **Best Value Bidder:** *Texas Local Government Code, Section 252.043*, states, in part: In determining the best value for the municipality, the municipality may consider:
 - the purchase price;
 - the reputation of the bidder and of the bidder's goods or services;
 - the quality of the bidder's goods or services;
 - the extent to which the goods or services meet the municipality's needs;
 - the bidder's past relationship with the municipality;
 - the total long-term cost to the municipality to acquire the bidder's goods or services; and
 - any relevant criteria specifically listed in the request for bids or proposals and evaluated accordingly.
- 4. Bid Protests:** *Texas Government Code 2155.076* recommends the adoption of protest procedures for resolving vendor protest relating to purchasing issues.

These procedures are consistent with the rules of the Comptroller of Public Accounts and include:

- (a) Any actual bidder or contractor who is aggrieved in connection with a bid invitation or award of a contract may protest to the City's Purchasing Manager.
- (b) The protest must be submitted in writing within five (5) business days after the public posting of the Recommended Award on the City's agenda.
- (c) Only written protests shall be considered. The protest letter must be signed and include the following information:
 - (1) a specific identification of a statutory or regulatory provision(s) that the action complained of is alleged to have violated;*
 - (2) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in paragraph (1) of this subsection;*
 - (3) a precise statement of the relevant facts;*
 - (4) an identification of the issue or issues to be resolved;*
 - (5) argument and authorities in support of the protest; and*
 - (6) a statement that copies of the protest have been mailed or delivered to all other identifiable interested parties. Upon request, the division will furnish to the requestor a list of interested parties, as reflected in the records of the commission.*
- (d) A protest that is not submitted in an ascribed manner and by the determined time is not eligible for consideration.
- (e) Any decision is final.

5. Recommendation for Award: Council agenda items are prepared in accordance with City's agenda packet requirements. Purchasing is responsible for submitting agenda items for bids that are managed and conducted by Purchasing. The department is responsible for providing any information necessary to complete those agenda items, reviewing agenda drafts and approving agenda items before they are uploaded in the City's agenda system.

b. Purchase Orders (PO)

The Purchase Order (PO) is an instrument designed to expedite and control buying for the City. A PO authorizes the seller to ship and invoice materials/services as specified. POs should be created with exact quantities and product or service descriptions and before the order is placed with a vendor.

The City's ERP financial system is used to enter the PO requisition and will create purchase orders once the requisition is approved. A copy of the PO will be available in the City's ERP system and departments are encouraged to provide the completed PO to vendors.

The PO is considered a contract between the City and the vendor and it's important that the document is used to order goods and services.

1. **Purchase Order Requirements:** Direct purchasing by the department is permitted but should follow the guidelines established in this section. A purchase order (PO) is the recommended vehicle to make those purchases and should be made in the following circumstances:
 - Purchases of more than \$3,000 but less than \$50,000 that have been quoted out and approved by Purchasing. Quotes must include HUB / CMBL vendors (if an applicable vendor exists) if the purchase falls between that dollar range.
 - Purchases made from a contract or annual price agreement may exceed the \$50,000 amount assuming adequate approved price agreement funds and budget funds are available, and with cost center management approval.
 - All purchases more than \$50,000 not purchased from an Annual Price Agreement, either purchased at one time or over the course of a fiscal year, are subject to the state law on competitive bidding and Council approval.
 - Directors or above are responsible for approving all requisitions over \$50,000.
 - All purchase order requests require documentation attached to the requisition prior to being approved. If no documentation is attached, the purchase order request will be sent back to the Requester to make the changes.
2. **Purchase Order Types:** There are two types of purchase orders used. Selecting the correct type of purchase order prior to making a requisition will be important to ensure that goods and services are ordered correctly and that payments are processed with no errors.
 - **Service Purchase Orders:** Purchase orders that will have a defined dollar amount. The use of a service purchase order should be used for ongoing services – usually over a 12-month period – where you expect to have multiple, regular invoices during that term. Invoice payments will be debited against the purchase order amount until all funds are expended.
 - **Standard Purchase Order:** Purchase orders that have a specified quantity, contain multiple lines, or a combination of the two. These purchase orders will be used for one-time goods purchase or purchases against an existing contract. Invoices will be matched against receipt of goods and the quantities on the purchase order.
3. **Creating a Purchase Order:** Only the City's ERP system can create purchase orders. POs begin as requisitions entered by the department personnel. Requisitions are routed electronically to the department manager, then to the Purchasing department, and then the system converts the approved requisition into a purchase order.
 - **Requisitioner Requirements:** Requisitioners are required to submit purchase order requisitions in the City ERP system. The requisition should provide

documentation for the purchase and include it with the requisition. The City's ERP allows for documents to be attached to the request and should always be included. Invoices will NOT be used for requisitions. If an invoice is uploaded the requisition will be returned to the Requisitioner. A Requisitioner should note the following requirements:

Requisitions from \$3,000 - \$49,999: State law mandates that purchases in this range must have three vendor contacts, with two of them from HUB (Historically Underutilized Businesses) vendors if there are any in our counties. HUB vendors are vendors owned by a minority or a woman. Please consult with Purchasing for assistance in finding HUB vendors or with unusual circumstances.

Note: No quotes are necessary if one of the General Exceptions apply. Review the exemptions and requirements prior to making your request. A detailed explanation of the exception must be noted in City's ERP system as a comment attached to the requisition.

- **Requisitions over \$50,000:** Requisitions must have a detailed notation of the purpose of the expenditure, if it went through a formal procurement process, and when it was approved by City Council. Council approval date must be noted in the City's ERP by using the comment function.

The Requisitioner shall not use **Split Purchases** when creating POs. The City may not split purchases to circumvent the competitive bidding requirement and City Council approval of the \$50,000 limit. Split purchases as defined in the *Texas Local Government Code Section 252.001* are as follows:

- **Component Purchases:** purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
 - **Separate Purchases:** purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
 - **Sequential Purchases:** purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.
4. **Approval Workflow Thresholds:** Approvers will no longer have discretionary authority to approve every requisition. Approval levels will be assigned to specific roles in a pre-determined level to approve certain dollar amounts. The approval level and dollar thresholds are listed below:
- Level 1 – Accounting Unit Supervisor: \$0 - \$5,000
 - Level 2 – Accounting Unit Manager: \$5,000.01 - \$49,999.99
 - Level 3 – Director: Greater than or equal to \$50,000
 - Level 5 – Purchasing Manager: Purchasing Approval if Greater than or equal to \$2000 Level.

After the Requisition has been approved at the Level 5 approver, the requisition will be automatically created as a Purchase Order and released. **Note:** POs that

are under \$2,000 will be approved automatically after the Level 1 approves the requisition.

5. **Approval Timelines:** Requisitions will need to be approved at all levels prior to becoming a purchase order. Approvers have a limited amount of time to approve a requisition before it moves to the next level to ensure that there is no delay in the creation of a purchase order.

Requisitions will move to the next level after 48 hours of no action taken. This will continue until it reaches the Director level (Level 3) for over \$50,000 purchases and/or the Purchasing level (Level 5) for all purchases. Once the requisition hits one of those levels, it will not move forward until an action has been taken. At that point, Purchasing will reach out to the departments to seek information on whether the requisition needs to be sent back to Level 1 or rejected.

Note: Purchasing will NOT approve a requisition that has moved to Level 5 due to inaction. Purchasing staff will review and take action on a requisition within 48 hours of receiving the request.

6. **Receipt of Goods:** Once supplies or materials have been received, they should be verified to the specifications that were required. If correct, the requestor that generated the purchase order in the City's ERP system will make a receiving entry. If the quantity received does not agree with the vendor's packing slip or the material does not conform to specification, the vendor should be notified immediately. If the purchase order does not match the received quantity, please contact Purchasing so that the purchase order can be amended. Partial receiving entries should be noted in the City's ERP system.

c. Non-Purchase Orders (NOPO)

NOPO's are used only for purchases or payments for refunds, postage, petty cash reimbursements, travel expenses such as reimbursements/advances, and utilities.

All other expenses must be entered and processed through the City ERP requisition/purchase order process.

d. Purchasing Cards (P-Cards)

The Purchasing Card (P-Card) policy and requirements can be found in the Purchasing Card Program Cardholder Manual found by clicking the link: [Purchasing \(sharepoint.com\)](#). P-Card use is encouraged for purchases of low-dollar items below the limit needed for quotes.

e. Service Contracts / Goods Contracts

Contracts will be set up in the City's ERP system. The use of the contract will allow tracking of the total cost of goods and services and all invoices to be paid against existing contracts either directly or via purchase orders.

Purchasing will assist departments in assessing the need to set up contracts in the City's ERP system. Once a need is identified, Purchasing will set up the contracts in the City's ERP based on the Council action (if applicable) and/or the original, executed contract document. Since City contract administration is decentralized, departments

are solely liable for exercising control and tracking expenditures to avoid overspending on contracts, as well as all manner of compliance including:

- 1. Obligation of City and Contractor to Use Contract:** The contractor has an obligation to furnish all materials and/or services against the contract and the City has an obligation to order materials and/or services covered by the contract on an as-needed basis from the successful contractor.

Items that are on existing contract with a vendor should not be procured from any other vendor. This may constitute a breach of contract and may result in violations of the competitive bidding statutes.

The contract takes precedence over all other pricing. For example, if Vendor A holds the contract for office supplies, the City cannot procure said supplies from Vendor B, even though the price may be lower at the time of purchase. The City is under contractual obligation to purchase from Vendor A.

Note: A department may use another vendor if the contracted vendor cannot meet the requirements of the contract. Purchasing should be informed of this situation and no, non-contract purchases should be made until Purchasing has verified contract non-compliance.

- 2. Renewal of Contracts:** Contracts will have renewal options for additional one (1) year terms. The total, maximum term of a contract should not exceed five (5) years, including all renewal options. Longer contract terms may be necessary and will be evaluated by Finance, in collaboration with departments, prior to release of bid.

Purchasing will contact departments approximately 120 days prior to the expiration of a contract. The 120-day notice is to allow sufficient time to prepare the renewal process or notify the contractor of cancellation and to re-bid the contract. If Purchasing does not receive a decision from the user department within 60 days of the term expiring, Purchasing will make the decision to either extend the contract or re-advertise for new bids.

- 3. Verification of Contracting Vendor in System for Award Management (SAM):** Vendors are required to be set up in the City's ERP system for use on contracts. The setup includes checking the debarment status of all each new set-up against the federal government's Excluded Parties List (EPLS) within SAM or any subsequent system as approved by the federal government.

Purchasing is responsible for verifying the EPLS status of vendors related only to Purchasing Division contracts and bid files to include annual agreements, renewals, single-source, and cooperative procurements. Departments are likewise responsible for verifying the EPLS status of vendors for bids and contracts not managed by Purchasing. If an intended awardee is found to have an EPLS status that indicates debarment, that contractor will not be used.

Note: Verification of EPLS is a federal funds requirement no matter the spend.

VII. AUCTIONS

The Purchasing Division is responsible for the disposal of all City property. Methods of disposing surplus property include, but are not limited to the following:

- a. Sold at public auction by an auctioneer licensed by the state;
- b. Sold by soliciting competitive bids;
- c. Sold or donated to a political subdivision of this state, a state agency of this state, or an entity of the federal government;
- d. Sold or donated in accordance with any other City policy;
- e. Traded-in on new property of the same type when in the best interest of the City; or
- f. Destroyed or donated to a civic or charitable organization, if such property has a value of less than \$500.

The department is responsible for submitting a list of all merchandise for disposal by means of a City Property (Disposition Form) Disposal Form located on the [Purchasing Sharepoint](#).

The department should also include photos of the items and email them to Purchasing. Purchasing will determine which method of disposal will be used and communicate that process to the department. Departments should coordinate all items going to the City auctions with the Purchasing Division. If the item was originally purchased using any grant funds, this must be noted when the Purchasing Department is contacted.

Note: Only usable or working items will be sold or assigned to other departments. The department is also required to remove any Fixed Asset tags and to complete the appropriate paperwork and return this information to Purchasing. Purchasing will notify Accounting of any fixed asset disposals.

VIII. VENDOR RELATIONS

It is the City's desire to have a reputation in the vendor community for fairness, equity and transparency related to our bid and award processes. To that point, Purchasing is committed to developing and promoting its relationships with vendors, and encourages departments to cultivate relationships that achieve the goals stated above in the following ways:

- a. **Avoiding Conflicts of Interest:** Conflicts of interest may be real or perceived. As City officials and representatives, our conduct should be beyond reproach in establishing relationships with vendors with the stated goal of avoiding any impropriety conducting business with the vendor community. This policy encourages a commonsense approach to avoid conflicts of interest and the below examples highlight some common areas where conflicts of interest are likely to occur:
 1. **Gifts from Vendors:** Administrative Directive 21 is the Code of Ethics. All employees should be familiar with this policy and the requirements on employee conduct and vendor gifts. If uncertainty exists on whether a gift is appropriate, the best course of action is to avoid gifts all together.
 2. **Vendor Lunches:** The same policy limits meals provided by vendors to not exceed \$50. Lunches are often a convenient time for meeting with vendors. Repeated lunches that are paid for by the vendor should be avoided and the employee may want to consider having the City pay for their or both lunches, assuming there is

available budget money. Similar to gifts, if uncertainty exists whether meals or repeated meals constitute a conflict of interest, it's better to avoid them all together.

3. **Vendor Sponsored Training:** Attending vendor sponsored training is appropriate if it helps the employee to do their job more effectively. The keys to remember in these situations are fairness to all vendors, frequency with which you accept these offers, and the perception (real or perceived) of favoritism to one vendor. The City, as part of a department's training budget, should generally pay travel and lodging costs for out-of-town training unless it is part of a contract or bid award. If the vendor pays travel costs, the employee should carefully consider that the location of the training and the length of the stay do not create an appearance of personal benefit and/or favoritism to the vendor.
4. **New Products/Demo Items:** It shall be the policy of the City to investigate and purchase new products or services for trial whenever possible. New products that are found acceptable may be included in the bid process to determine their cost effectiveness as long as it doesn't reference a specific vendor or give a specific vendor an unfair advantage in the bid process.

Note: The items above do not constitute a complete list of possible conflicts of interest. They do represent common examples where conflicts can occur, however. It's important to note that if a bid process is ongoing, vendor contact in any form (gifts, lunches, etc.) is expressly prohibited if the vendor has a vested interest in the outcome of the bid. A violation of that prohibition may result in the vendor being barred from participating in a bid process and appropriate disciplinary action for the department.

- b. **Bid Specifications:** Clearly written bid specifications that are justified by a valid business purpose, that are non-proprietary, and do not impose unreasonable requirements are one of the best tools for maintaining good vendor relations. If a department is getting a low response rate to a bid, they should review the specifications to ensure that all requirements are reasonable, and no barriers exist preventing other vendors from competing. Purchasing will review specifications and ensure that they meet the standards of an open and fair process.
- c. **Inclusion of Local Minority Vendors:** Creating an atmosphere of inclusion and opportunity is very important to drive competition for bids. Therefore, it is the policy of the City to encourage the use of local and/or minority vendors whenever possible. Outreach to local and minority vendors is a must and can be done through attendance of local tradeshow and providing training that explains how they can more effectively compete for the City business is always encouraged. Departments are also encouraged to source local and minority vendors whenever possible and to direct them to Purchasing so that we can implement one of the processes mentioned above.

IX. CONFLICT OF INTEREST

In addition to the operational guidelines established above, the City has established a Conflict-of-Interest policy that all City employees are required to follow. The policy is effective immediately:

No employee shall have a direct or indirect interest in any contract with the City or be directly or indirectly financially interested in the sale of materials, supplies, or services to the City. Financial interest will not be considered to exist in the case of insignificant, non-controlling interests in a corporate entity, for example, stock ownership in a corporation that is insignificant to the employee's financial worth and does not create a controlling interest in the corporation. Indirect financial interest shall include financial interests of relatives of the first degree of consanguinity and affinity and cohabitants as defined in Administrative Directive 4 (Nepotism).

Employees shall formally withdraw from any decision-making process in which the employee's family member, as defined in the Administrative Directive on nepotism, could personally benefit. Any employee who believes his or her private business interests could benefit from a pending transaction of the City shall advise their Department Director in writing of the situation.

X. FEDERAL GRANT FUNDING – PROCUREMENT AND SUSPENSION AND DEBARMENT

Program managers are required to follow State and local procurement guidelines when making purchases with grant funds.

When a purchase is made with grant funds, the Program Manager must review the Excluded Parties Listing Service (EPLS) prior to the purchase to ensure that the vendor has not been suspended or debarred from Federal awards (see **Section VI, E.3** for information about SAM verification). Additional requirements related to the procurement process may be required and Department's should consult with Purchasing to determine if those processes are needed for a particular procurement.

Note: Certain grant-related administrative payments, such as for travel, office supplies, and telecommunication charges will be exempt from the process, unless they cumulatively exceed \$50,000.00 with a single vendor for a single purpose or project.

XI. PURCHASES WITH RESTRICTIONS

Some purchases have restrictions not related to the above processes. These are:

- a. Flowers:** Purchase of flowers from city funds is acceptable for major hospitalization of an employee or the funeral of an employee, an employee's spouse, an employee's child, or current or former Council Members. The cost of the flowers should be paid from budget funds in the employee's department.
- b. Gift cards:** Gift cards may not be purchased using city funds or donated funds and given to employees for any reason. All gift cards/cash are required to be taxed at a flat rate of 22% by the Payroll division. Prizes, awards, or recognition gifts may not be gift cards, cash, or other items that are taxable to IRS.
- c. Food purchases:** Food purchases are only allowed for the items listed below, and the City will only allow the following meal/food expenses. These restrictions also apply to food purchased using P-cards:
 1. Related to local seminars or events ONLY if the meal is an integral part of the seminar.
 2. Council/Boards and Commissions meetings
 3. Employee retirement events. Refer to "Employee Receptions" administrative directive for Workforce Services (WFS).
 4. For travel

5. Snacks for New Employee Orientation (NEO)
- d. **Employee Recognition Meals:** The City will reimburse meals related to the employee recognition fund up to the approved budgeted amount:
 1. Funds budgeted under the employee recognition program can only be used for food purchases.
 2. The Department cannot use these funds for gift items (i.e. shirts, hats) or restaurant gift certificates.
 3. These funds cannot be used for the purchase of alcohol.
 4. Recognition meals should be coded to the "Special Recognition Food" line item (60150) and should be spent within the fiscal year.
- e. **Meals requiring special approval:** Assistant City Manager or City Manager's approval in advance is normally required for the following meals. In the event the City Manager or ACM is not available, the Director shall document the circumstances justifying the meal and the reason prior approval was not obtained.
- f. **Working meals:** These are infrequent peak workloads that require employees to work through lunch or until at least 7:00 p.m. and a meal is brought to allow employees to eat without leaving the workplace.
- g. **Special Acknowledgement Meals:** Meals or treats to acknowledge and celebrate a specific accomplishment or success.

XII. MISC. PROVISIONS

The following are miscellaneous provisions important to the procurement process. They may be additional topics not covered in the other sections or supplements to information found above and include:

- a. **Vendor Setup and Verification:** A vendor must be set up in the City's ERP system before a purchase order or contract can be established. You will not be able to create purchase orders without this process happening. The department is responsible for ensuring that the following items are addressed prior to requesting a purchase order or contract.

The new vendor setup will require a completed W-9 form (Request for Taxpayer Identification Number and Certification). The W-9 form should be submitted to the Accounts Payable Unit, who will enter the new vendor information into the City's ERP system.

Departments can obtain a blank W-9 form on [Sharepoint](#), although most vendors have these forms filled out and readily available.

- b. **Sales tax:** Sales tax on most purchases of goods and services should not be billed and paid. The sales tax-exempt form can be found on the Purchasing's [Sharepoint](#) page. Departments are responsible for providing a tax-exempt form to vendors prior to purchases being made and if taxes are levied on purchases, it's the department's responsibility to have them removed.

Note: that taxes associated with hotels or other accommodations are not exempt. These taxes must be paid as part of the bill.

- c. **Receipts:** Receipts are needed for all p-card expenses and requests for reimbursements, and the receipt must be the detailed receipt and not a summary receipt. If an itemized receipt cannot be obtained, the employee must demonstrate their best efforts to resolve getting invoices to confirm any purchases.
- d. **Budget transfers or supplements:** The department/division ordering products or services has the responsibility to see that budget accounts are not overspent. If the account lacks a sufficient budget balance, will not allow the requisition to be entered. The department head may decide to:
 - 1. Withdraw the request and cancel the requisition.
 - 2. Send a budget transfer form to the Budget Unit requesting a transfer of funds showing the account number from which the transfer shall be made. Should transfers be required from a different fund, prior approval from the City Council will be necessary.