



**DALLAS COUNTY  
COUNTY AUDITOR**

**REPORT ON INTERNAL CONTROL & COMPLIANCE**

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TO: Shannon Brown  
Purchasing Agent

FROM: Virginia A. Porter  
County Auditor

A handwritten signature in blue ink that reads "Virginia A. Porter".

SUBJECT: Purchasing Department – Pricing and Negotiation – FY2010 thru 2011

ISSUE DATE: June 26, 2012

RELEASE DATE: September 14, 2012

**SCOPE**

As part of ongoing reviews of county offices and compliance with statutory regulations, we have performed a limited review of the Dallas County Purchasing Department – Pricing and Negotiation procedures for the period of October 1, 2009 through September 30, 2011 during which Linda Boles served as Purchasing Agent. Excluded are Pricing and Negotiation elsewhere authorized by law for other departments.

Approximately 64.2% (excluding approximately 3.8% for food for inmates) of FY2011 non-utility procurements (by dollar value) were for goods and services through annual contracts, one time sealed bids, request for proposals, and request for qualifications, approximately 11% of FY2011 non-utility procurements were through cooperative and interlocal contracts (authorized under V.T.C.A, L.G.C. § 271.102 and Government Code 791.001, respectively), approximately 3.1% of FY2011 non-utility procurements were for goods and services through quotes (items under \$25,000 which account for over 25% of the buyer's time), and approximately 17.9% (includes 3.9% sole source designation) of FY2011 non-utility procurements were for goods and services and exempted from competitive bidding in accordance with statute.

**PROCEDURE**

Standard review processes were applied to data from the department in order to evaluate internal controls and compliance within the department for pricing and negotiation. Various types of purchases of goods and services were evaluated based on risk, volume of transactions, and noted internal control weaknesses. A random sampling of vendors was selected to test. Review steps included, but were not limited to, the following:

- Review of policies/procedures and statutes for pricing and negotiation aspects of professional service contracts, state contract purchases, maintenance service agreements, cooperative purchase agreements, sole source purchases, emergency purchases, purchases or contracts below and above \$25,000, and contract renewals.
- Review of internal controls and weaknesses as relate to pricing/negotiation.

- Testing to determine compliance with County policy/procedures and statutes for pricing/negotiation.

## **FINDINGS/OBSERVATIONS**

1. One vendor with multiple purchase orders in excess of \$35,000 in FY2010 and \$42,000 in FY2011 not included on a bid proposal. (During audit period, County policy required bids at a lower threshold of \$25,000 while statutory threshold was \$50,000. Dallas County Commissioners Court increased bid level to \$50,000 effective October 25, 2011.)
2. Instances of user departments completing procurement actions for professional services, without assistance from Purchasing. Solicitation documentation was not provided to Purchasing.
3. Annual renewal of previously approved sole source suppliers is not submitted to Commissioners Court with recertification.
4. Numerous instances of vendor phone quote documentation not retained, limited instances of written vendor quote documentation not retained, and evidence of MBE/WBE vendor participation not retained.
5. Goods are purchased through various governmental procurement/cooperative programs without independent research / analysis on a sample basis by Purchasing for potential lower available prices.
6. Purchases of non-maintenance items / non-component parts from vendors listed and approved by Commissioners Court as 'sole source' for specific equipment maintenance.
7. Instances (purchases below \$25,000) of vendors reflected as sole source without court orders on file.
8. Lack of written departmental procedures and limited Dallas County Code procedures regarding purchases through various governmental procurement and cooperative programs.
9. Incomplete written departmental procedures and limited Dallas County Code procedures regarding sole source exemptions, professional service contracts, etc.
10. Dallas County Code has not been updated to reflect the automated requisition / purchase order process.
11. Process is not in place to ensure bid, RFP, and/or RFQ evaluators have submitted 'disclosure of outside income' to the County Administrator prior to participating on the evaluation committee.

## RECOMMENDATIONS

1. Data extracts should be generated from Oracle on a scheduled basis to project annual purchases from vendors.
2. Purchasing Agent should supervise all purchases in accordance with statutes and Dallas County Code. Quotes and other documentation obtained by other departments should be verified as lowest/best with a copy retained by Purchasing.
3. Sole source awards should be evaluated bi-annually to affirm items continue to be obtainable for only one source.
4. Purchasing should maintain all documentation (phone quote sheets and written quotes electronically attached to Requisitions or Purchase Orders within Oracle) related to procurement actions. At a minimum, documentation should be retained the latter of records retention schedules or audit completion date.
5. Purchasing should independently research product pricing on a sample basis for the lowest/best available price prior to the use of available procurement programs with the State and other governmental entities.
6. Purchasing should monitor purchases from vendors with 'sole source' designation for products unrelated to the designation.
7. Purchasing should adequately research products available prior to designation as 'sole source' with written justification for departmental preferences.
8. Departmental policies and Dallas County Code should be updated to include procedures for all purchasing procurement actions including procurement programs and cooperative purchasing agreements with the State and other governmental entities.
9. Departmental policies and Dallas County Code regarding sole source exemptions and professional services should be expanded.
10. Dallas County Code should be updated to incorporate changes related to the automation of the requisition and purchase order process.
11. Bid/RFP/RFQ evaluators (including assistant Purchasing agents) should submit 'disclosure of outside' forms to the County Administrator prior to participating in evaluations.

## RESPONSES

Purchasing Department responses are incorporated with the attached finding/observation templates 11-Pur-01-01 through 11-Pur-01-05.

## **SUMMARY**

This report is intended for the information and use of the department. While we have reviewed internal controls and documentation, this review will not necessarily disclose all matters of material weakness. It is the responsibility of the department to establish and maintain effective internal control over compliance with the requirements of laws, regulations, and contracts applicable to the department.

Highest areas of risk which need to be addressed include: purchase orders flagged with an exemption including sole source designation; items purchased through various government programs without confirming research and analysis on a sample basis for lower (best) available price; and inconsistent retention of quote documentation.

Emphasis on outlined procedures should provide for improved departmental processes. Adherence to and follow-through with recommendations should strengthen internal controls and compliance with Dallas County's policies and procedures.

cc: Darryl Martin, Commissioners Court Administrator



Sum 9-7-12  
 VP 9/10

**Finding Number:** 11-Pur-01-01  
**Date:** March 21, 2012  
**Audit:** Purchasing Department – Pricing and Negotiation FY10/11  
**Auditor(s) Assigned:** TB

<p><b>Finding:</b></p>	<p><b>Purchases Below \$25,000:</b>                  Review of Purchasing documentation for thirty-six (36) vendors (approximately 1.041% of population) with procurements totaling less than \$25,000 revealed:</p> <ul style="list-style-type: none"> <li>• Phone quote documentation was <u>not</u> consistently retained by the buyers (and/or attached as a document within Oracle). One phone quote which required the selected vendor/bidder to submit a written quotation (amount greater than \$5,000) was not located.</li> <li>• Phone quote documentation was <u>not</u> provided by Elections to Purchasing for rental of polling locations (amounts \$1,000 or less).</li> <li>• One instance of lowest quote not selected from three written quotes and without other reason noted.</li> <li>• One instance of annual software maintenance agreement not court ordered as sole source vendor exception.</li> <li>• Three instances of vendors reflected as a sole source by Purchasing without sufficient specificity to justify sole source as other similar product vendors readily determined online.</li> <li>• Policy is not evidenced for minimum due diligence requirements when items are purchased through various government procurement programs without separate research and analysis by Purchasing:                         <ul style="list-style-type: none"> <li>○ Two of three procurements through State (DIR {Department of Information Resources} and Texas Procurement and Support Services {TPASS}) programs without due diligence noted.</li> <li>○ Two of two procurements through U.S. Communities contract without due diligence noted.</li> <li>○ Four of four procurements through interlocal agreements without due diligence noted.</li> </ul> </li> <li>• Purchasing relies solely on other department to maintain records related to the purchases without Purchasing involvement</li> </ul>
<p><b>Work paper Reference:</b>                  (or other method by which finding was identified)</p>	<p>Work paper 4.A.1 to 4.A.10 Testing                  Documents and responses from Purchasing Department                  Review of Oracle Purchase Orders, Requisitions, and attachments                  Vendor invoices and quotes                  Review of Court Orders and Briefings                  Internet searches</p>
<p><b>Condition:</b>                  (Describe the current condition)</p>	<p>Departments submit requisitions electronically for non-bid goods or services to Purchasing. Departments may identify providers of the goods or services, but the individual buyer is responsible for compliance with County code on the number of phone or written solicitations required prior to the issuance of a Purchase Order (PO). Reliance is placed on documentation provided by user department. The buyer consults with the Minority Business Officer (MBO) for the names of MBE/WBE firms. The buyer contacts a requisite number of vendors in accordance with the County code based on the dollar value of the goods or service. On occasion the buyer is not able to contact the number of vendors stipulated in the County code due to a limited number of vendors offering the product or service. The buyers document the phone quotes on a phone quotation sheet form, but does not consistently retain the form or append as an attachment to the Purchase Order in Oracle. The buyer will issue a PO to the vendor with the lowest noted quote and involves legal as needed to draft/approve any contract. Vendor retains the right to refuse delivery or performance if they do not agree with the PO terms including the price.</p> <p>For items costing between \$15,000.01 and \$24,999.99, the buyer contacts a requisite number of vendors for written solicitation (or uses State procurement programs and interlocal cooperative purchasing agreements). Written quotes received are evaluated by the buyer with a PO issued to the selected vendor. For instances where requisite number of bids are not obtained, a Commissioners Court briefing is not consistently submitted.</p> <p>For items costing between \$5,000.01 and \$15,000, the buyer contacts a requisite number of vendors for phone solicitation (or uses State procurement programs and interlocal cooperative purchasing agreements) with a written quotation required from the successful bidder.</p> <p>Items are purchased through various government procurement programs without confirming research and</p>



	<p>analysis by Purchasing for lower available prices. Purchasing depends solely on the respective entity that solicited or executed the agreement; and does not individually validate that the price is the best value for the county.</p> <p>Quote documentation sheets are inconsistently retained and do not evidence the vendor's minority status.</p>
<p><b>Criteria:</b> <b>(Describe the optimal condition)</b></p>	<p>Dallas County Purchasing operates a centralized purchasing system where the purchasing agent performs or supervises the following:</p> <ul style="list-style-type: none"> <li>- Acquisition of all goods and services</li> <li>- Prepare and issue solicitations and ensure that the selection process is in compliance with the Local Government Code and Dallas County Code</li> <li>- Issue purchase orders for goods and services</li> </ul> <p><b>Dallas County Code Sec. 94-121 (d)</b> Participation of minority businesses. Minority businesses will be encouraged to participate in the bid process. (e) .....quotations will be based on established standards and specifications whenever possible.</p> <p><b>Dallas County Code Sec. 94-122 Procedures for less than \$25,000 (unless exempted by order of Commissioners Court under LGC 262):</b></p> <ul style="list-style-type: none"> <li>(2) <i>\$0.01--\$1,000.00.</i> At the buyer's discretion, only one phone quote may be obtained.</li> <li>(3) <i>\$1,000.01--\$5,000.00.</i> A minimum of three phone quotes will be required and documented on the phone quotation sheet form. If the above requirements cannot be satisfied, the buyer must provide written justification as to why three phone quotes could not be obtained.</li> <li>(4) <i>\$5,000.01--\$15,000.00.</i> A minimum of five phone quotes will be required and documented on the phone quotation sheet form, including a minimum of two MBE/WBE firms. The MBO officer will furnish the buyers with the names of MBE/WBE firms. A written quotation will be required from the successful bidder verifying the price quoted, quantity, description, delivery, terms, etc. If the above requirements cannot be satisfied, the buyer will provide written justification as to why five phone quotes could not be obtained.....</li> <li>(5) <i>\$15,000.01--\$24,999.99.</i> A minimum of five written quotes will be required and documented, including a minimum of two MBE/WBE firms. The MBO officer will furnish the buyers with the names of MBE/WBE firms. If the minimum number of written quotes cannot be obtained, an explanation must be furnished. In such instances, an informational briefing will be presented to commissioners court detailing the actions taken to ensure competitive procurement.</li> <li>(6) Regardless of the value of items requested, all requisitions and purchase orders must have supporting pricing documentation. Documentation can include but not be limited to: price lists, catalog pricing, telephone documentation, vendor quote sheet, etc. However, a price list or catalog price does not exclude the requirement for obtaining more than one bid.</li> </ul> <p><b>Dallas County Code Sec. 94-274.</b> Documentation of rotation of bidder solicitations. The purchasing department should document the rotation of bidder solicitations (under \$5,000.00), to ensure that disadvantaged vendors, suppliers and contractors are given an ample opportunity to profit from the process, and provide periodic reports to the Commissioners Court.</p> <p><b>Local Government Code Sec. 262.011:</b></p> <ul style="list-style-type: none"> <li>(d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.</li> <li>(e) The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.</li> </ul> <p><b>V.T.C.A., L.G.C., § 271.102. COOPERATIVE PURCHASING PROGRAM PARTICIPATION.</b> (a) A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization.</p>



	<p><b>V.T.C.A., Government Code, 791.001. PURPOSE.</b> The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.                  Comprehensive purchasing policies and procedures exist to promote internal controls and transparency in every aspect of the procurement process.</p>				
<b>Cause: (Describe the cause of the condition if possible)</b>	Inconsistent application of policies and procedures and supervisory review. Reliance on cooperative purchasing agreements and state contracts without independent research and analysis.				
<b>Effect: (Describe or quantify any adverse effects)</b>	Risk of Dallas County not receiving the best value on purchases in compliance with statutes and Dallas County Codes. Decreased control over procurement process increases potential for fraud as well as exposure to criticism and lawsuits.				
<b>Recommendation: (Describe corrective action)</b>	<ul style="list-style-type: none"> <li>• Purchasing Agent should purchase all supplies, materials, and equipment in accordance with V.T.C.A., L.G.C., § 262.011 and Dallas County Code. Phone quotes provided by other departments should be affirmed and documented prior to PO issuance for:                         <ul style="list-style-type: none"> <li>○ Compliance with county specific requirements such as venue or insurance</li> <li>○ Justification for expedited contracting without vetting other potential purveyors</li> <li>○ Affirmation that prices and terms as best available</li> </ul> </li> <li>• Purchasing should maintain all documentation (phone quote sheets and written quotes electronically attached to Purchase Order within Oracle) related to procurement actions in accordance with state retention policy.</li> <li>• Purchasing should independently research/test product pricing on a sample basis for the lowest available price prior to the use of available procurement programs with the State and other governmental entities.</li> <li>• Purchasing should adequately research/affirm products available prior to designation as 'sole source' with written justification for departmental preference of specialty learning software.</li> </ul>				
<b>Responsible Department or Organization:</b>	Purchasing Department				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<b>Respondent:</b>	Shannon Brown, Purchasing Agent	<b>Date:</b> 9/4/2012
<b>Comments:</b>	The Purchasing Department agrees with the recommendations that are listed under the first, second, and fourth bullet points related to compliance with statutes and County policies. After reviewing the specific instances noted in additional documentation provided, the buyers associated with those purchases have been consulted and informed of the need to maintain appropriate documentation. However, there are instances, specifically those related to the rental of election locations, where Purchasing has not participated in the rental process and the Commissioners Court has directly approved the locations.  The Purchasing Department respectfully disagrees with the recommendation under the third bullet concerning the use of interlocal purchasing cooperatives. The intent of these cooperatives is to allow entities to accelerate the procurement process through contracts that have been competitively procured by another entity. The Purchasing Department is not required to perform due diligence on each purchase except to the extent to determine the contract to be used was competitively solicited and awarded. Through the use of purchasing cooperatives, the department meets the criteria of the procurement statute without additional due diligence. That being said, the department performs due diligence when time permits or the buyer believes it is warranted.				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



Am 2-7-12  
VF 9/10

**Finding Number:** 11-Pur-01-02  
**Date:** March 21, 2012  
**Audit:** Purchasing Department – Pricing and Negotiation FY10/11  
**Auditor(s) Assigned:** TB

<p><b>Finding:</b></p>	<p><b>Purchases \$25,000 or more (County policy requires bids at lower threshold of \$25,000 while statutory threshold of \$50,000) during period of audit (increased 10/25/2011):</b>                  Review of Purchasing documentation for thirty-three (33) vendors (0.955% of population) with procurements totaling \$25,000 or more revealed:</p> <ul style="list-style-type: none"> <li>• Cumulative purchases from one vendor in excess of \$35,000 in FY2010 and two vendors in FY2011, one in excess of \$42,000 and other in excess over \$31,000 absent a formal bid process. Quotes were electronically attached to Purchase Orders reviewed in Oracle.</li> <li>• Two instances where Purchasing did not participate in the procurement process handled by other departments for two professional service contracts. Procurement documentation was <u>not</u> provided to Purchasing.</li> <li>• Approximately 9.38% of large purchases (based on random sampling) utilize state contracts:                         <ul style="list-style-type: none"> <li>○ Thirteen procurements from State (Department of Information Resources {DIR}, Texas Multiple Award Schedule {TXMAS}, and Texas Procurement and Support Services {TPASS}) programs without independent research by Purchasing for a lower purchase price or notation of need to expedite process. One of the fourteen procurements related to an ‘exemption’ authorized by Commissioners Court under V.T.C.A., L.G.C., § 262.024 (a) for fire panels in the jail.</li> </ul> </li> <li>• Purchases from one vendor with ongoing purchase activity classified as ‘sole source’ exemption with last briefing located dated in October 2005.</li> <li>• Purchases for non-maintenance items from one vendor classified as an ‘exemption’ approved in 2003 for computer equipment maintenance.</li> <li>• Purchases for non-component items from one vendor with ongoing purchase orders classified as a ‘sole source exemption’ approved in 2006 for the system and future component parts.</li> <li>• Nine vendors with thirteen unauthorized purchase exceptions noted by AP and violations of various contracts were noted during period under review. In addition, purchasing off-bid items cost County an additional \$1,736.45</li> <li>• Purchase orders are approved without reviewing Excluded Parties Listing Service (EPLS) to confirm awarded vendor is not on the debarred list.</li> </ul>
<p><b>Work paper Reference:</b>                  (or other method by which finding was identified)</p>	<p>Work paper 4.A.1 to 4.A.10 Testing                  Documentation and responses from Purchasing Department                  Review of Oracle Purchase Orders, Requisitions, and attachments                  Vendor invoices                  Review of Court Orders and Briefings                  Internet searches                  AP Memos to Purchasing and user departments</p>
<p><b>Condition:</b>                  (Describe the current condition)</p>	<p><b>Competitive Bids</b>                  Purchasing in collaboration with the user departments prepare bid specifications for various goods or services to be procured. Depending on eligibility for bid exemption, Commissioners Court is briefed and the bid is let. Bids are advertised in accordance with County policy and statute. Purchasing actively seeks vendors by sending a copy of the proposal to known vendors that can supply the goods or services, to other vendors that have requested to receive a copy, and to M/WBE vendors on file or to those provided by the Minority Business Officer. Development of bid normally accomplished in 2 month period, and address operations, financial and legal issues. Bid proposals are time stamped as received to denote receipt prior to the cut-off time on the closing</p>





date. Commissioners Court approves opening the bids. The bids are opened by Purchasing. A master tabulation sheet is prepared to record scores for the various responses. For bids that require scoring by an evaluation committee, Purchasing is the central point of gathering the scores and combining together. A separate M/WBE vendor score is submitted by the Minority Business Officer. Commissioners Court is briefed on the proposals received and an award of the bid is approved and court ordered. For each sealed bid let, all bid related supporting documentation including one proposal submitted by each responding vendor should be retained in a master bid folder. Purchasing moderates all discussions during contract negotiation phase and affirms that requisite county specific language is incorporated before submitting contract for Commissioners Court approval.

**Requisition:**

Departments submit requisitions electronically for bid and non-bid goods or services to Purchasing. Departments may identify providers of the goods or services, but the individual buyer is responsible (However, Purchasing relies solely on other department to maintain records related to purchases without Purchasing involvement) for compliance with County code and state statutes prior to the issuance of a Purchase Order (PO). The buyer consults with the Minority Business Officer (MBO) for the names of MBE/WBE firms. The buyer contacts a requisite number of vendors in accordance with the County code based on the dollar value of the goods or service. On occasion the buyer is not able to contact the number of vendors stipulated in the County code due to a limited number of vendors offering the product or service.

**Exceptions to Competitive Bids**

Departments may brief Commissioners Court on professional service contracts without involvement of Purchasing. Practice considered consistent with laws because it does not involve the purchase of supplies, materials, and equipment or contracts for repairs to county property and legal review of ensuing contracts is completed.

Annual renewal of Sole Source court orders is not completed for submission to Commissioners Court.

**Select DIR, Cooperative Programs, Interlocal Agreements**

Items are purchased through various government procurement programs without separate research and analysis by Purchasing for lower available prices by briefing Commissioners Court. Purchases are considered consistent with laws regarding cooperative purchasing program participation and other statutes allowing purchases to be made through Interlocal agreements. Interlocal agreements are subject to legal review of ensuing contracts.

**Criteria:  
(Describe the  
optimal condition)**

Dallas County Purchasing operates a centralized purchasing system where the purchasing agent performs or supervises the following:

- Acquisition of all goods and services
- Prepare and issue solicitations and ensure that the selection process is in compliance with the Local Government Code and Dallas County Code
- Issue purchase orders for goods and services

Best practices for procurement procedures include bi-annual recertification of sole source awards, periodic comparison of federal government suspended or debarred vendors to a list of current or potential County vendors, and retention of procurement documents related to Grant funding in accordance with applicable OMB Circulars.



**V.T.C.A., L.G.C., §. 262.011:**

- (d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.
- (e) The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.

**Dallas County Code, Sec. 94-123. Procurement sealed bid process.**

- (a) Specific procedures as required by law and reflected in Vernon's Ann. Civ. St. and V.T.C.A., Local Government Code ch. 262 are followed by the county in the procurement of goods and services where the cost exceeds **\$25,000.00**.
- (b) The majority of the county bids are firm fixed price bids with the exception of certain contracts for the purchase of highly volatile material such as petroleum and oil products (POL) where various rates are controlled by state regulatory agencies.
- (c) The county solicits bids for basically two different types of contracts: definite delivery/quantity contracts, and indefinite quantity contracts (annual requirements for goods and services).
- (d) Advertisements for bids according to specifications given in detail as to what is needed is made by the county purchasing agent once each week for three successive weeks in local newspapers published and circulated in the county. Circulation must be adequate to cover general and minority business communities. Information that is required in the advertisement is outlined in V.T.C.A., Local Government Code § 262.025.

**V.T.C.A., L.G.C., § 262.023. COMPETITIVE REQUIREMENTS FOR CERTAIN PURCHASES.**

- (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000, the commissioners court of the county must:
- (1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;
  - (2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or
  - (3) comply with a method described by Chapter 2267, Government Code.
- (c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the requirements of this subchapter is not present.

**V.T.C.A., L.G.C., § 262.024. DISCRETIONARY EXEMPTIONS.**

- (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:
- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;
  - (2) an item necessary to preserve or protect the public health or safety of the residents of the county;
  - (3) an item necessary because of unforeseen damage to public property;



- (4) a personal or professional service;
  - (5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;
  - (6) any land or right-of-way;
  - (7) an item that can be obtained from only one source, including:
    - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
    - (B) films, manuscripts, or books;
    - (C) electric power, gas, water, and other utility services; and
    - (D) captive replacement parts or components for equipment;
  - (8) an item of food;
  - (9) personal 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; or
    - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;
  - (10) any work performed under a contract for community and economic development made by a county under Section 381.004; or
  - (11) vehicle and equipment repairs.
- (b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:
- (1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;
  - (2) the renewal or extension does not exceed one year; and
  - (3) the renewal or extension is the first renewal or extension of the lease or agreement.
- (c) if an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.
- (d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

**V.T.C.A., L.G.C., § 252.043 AWARD OF CONTRACT.** (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.(b) In determining the best value for the municipality, the municipality may consider:(1) the purchase price;(2) the reputation of the bidder and of the bidder's goods or services;(3) the quality of the bidder's goods or services;(4) the extent to which the goods or services meet the municipality's needs;(5) the bidder's past relationship with the municipality;(6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;(7) the total long-term cost to the municipality to acquire the bidder's goods or services;



and(8) any relevant criteria specifically listed in the request for bids or proposals.

**V.T.C.A., L.G.C., § 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING.**

(a) Any law that requires a county to follow a competitive procurement procedure in making a purchase requiring the expenditure of \$50,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

**Dallas County Code, Sec. 94-157. Sole source awards.**

(a) Sole source contracts may be awarded pursuant to V.T.C.A., Local Government Code § 262.024.

(b) All recommendations for award to sole source supplies must first be briefed to the commissioners court. The briefing should include a three-year history of the county's experience with the company and product, cost considerations including increase/decrease in demand, etc.

(c) If the commissioners court approves the recommendation, a sole source court order must be presented for award. The court order must include the following:

- (1) Name of company;
- (2) Product of service;
- (3) Cost;
- (4) Contract period.

**V.T.C.A., L.G.C., § 271.102. COOPERATIVE PURCHASING PROGRAM PARTICIPATION.** (a) A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization.

**V.T.C.A., Government Code, 791.001. PURPOSE.** The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.

**Dallas County Code, Sec. 94-214. Intergovernmental contracts.**

All of the county intergovernmental contracts and agreements shall be governed by the InterLocal Cooperation ACT, V.T.C.A., Government Code § 791.001 et seq.

**Dallas County Code, Sec. 74-395. Negotiation of lease.**

After departmental review, facilities maintenance will negotiate a lease for the space, making certain that all necessary clauses are include and that costs are appropriate.

**Dallas County Code, Sec. 74-396. Community assessment.**

For community supervision and correction leases, or like agencies, facilities maintenance will perform a community assessment based on approved guidelines and prepare a report.

**Dallas County Code, Sec. 94-121. - Requirements.**

(a) *Adherence to state law.* The purchasing department will adhere to the state purchasing laws and limits as governed by the County Purchasing Act pursuant to Vernon's Ann. Civ. St. or V.T.C.A., Local Government Code ch. 262.

**Dallas County Code, Sec. 94-465. - Proposals to be approved by commissioners court.**

All requests for offer (RFO) to be purchased through the state QISV program with an anticipated



	<p>cost exceeding \$25,000.00 shall be approved by the commissioners court prior to placement on the QISV system. The RFO must include detailed specifications of the item(s) to be purchased.</p> <p><b>Dallas County Code, Sec. 94-466. - Posting.</b> The purchasing department must electronically post information on the state's Electronic business daily website about the procurement for all purchases exceeding \$25,000.00 in compliance with the state requirements of 14 days if the entire RFO is posted on the site, or if notice only is posted, 21 days. The RFO may also be posted on the county's procurement website or otherwise advertised. The posting time may be extended by order of commissioners court.</p> <p><b>Dallas County Code, Sec. 94-467. - Minimum number of offers.</b> In order to make a purchase exceeding \$2,000.00, the purchasing department must first seek and obtain offers from at least three certified qualified information system vendors. The number of vendors may be increased by commissioners court based on the specific purchase/RFO.</p> <p>CSCD lease agreements are initiated by Facilities Management department in accordance with Dallas County Code.</p>				
<p><b>Cause: (Describe the cause of the condition if possible)</b></p>	<p>Limited training and supervisory review. Default to other available procurement options without research and analysis. A single vendor PO may include both bid and non-bid items.</p>				
<p><b>Effect: (Describe or quantify any adverse effects)</b></p>	<p>Risk of Dallas County not receiving the best value on purchases in compliance with the statutes.</p>				
<ul style="list-style-type: none"> <li>○ <b>Recommendation:</b></li> <li>○ <b>(Describe corrective action)</b></li> </ul>	<ul style="list-style-type: none"> <li>● Purchasing Agent should supervise all purchases in accordance with V.T.C.A., L.G.C., § 262.011 and Dallas County Code including:                         <ul style="list-style-type: none"> <li>○ Independently research product pricing on a sample basis for the lowest/best available price prior to the use of available procurement programs with the State and other governmental entities.</li> <li>○ Evaluate all sole source awards bi-annually to affirm items continue to be obtainable from only one source and submit recertification and order to Commissioners Court for approval.</li> <li>○ Generate data extracts from Oracle on a scheduled basis for projecting annual purchases by vendor. (Review top 100 vendors) Discourage user departments from buying items not on bid by not approving the requisitions, and in case of items already procured, items should be returned.</li> </ul> </li> <li>● Review Excluded Party Listing Service (EPLS) to confirm awarded vendor is not on the debarred list and retain evidence of review.</li> </ul>				
<p><b>Responsible Department or Organization:</b></p>	<p>Purchasing Department</p>				
<p><b>Management's Response:</b></p>	<input checked="" type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<p><b>Respondent:</b></p>	<p>Shannon Brown, Purchasing Agent</p>	<p><b>Date:</b> 9/4/2012</p>
<p><b>Comments:</b></p>	<p>The Purchasing Department disagrees with the audit's conclusion that cooperative purchasing requires independent research on pricing before utilizing the contract. The department does ensure that the cooperative contract is through an entity that competitively solicits and awards contracts and that the pricing is transparent and easily available. As previously stated, the use of these contracts allows the department to make purchases in compliance with state law and within the limited staffing resources that are available.</p>				



	<p>The department agrees that sole source designations should be reviewed bi-annually. The first review will happen by December 2012. Recently, one buyer has noted an item previously noted as a sole source is now available from other suppliers (plastic wrap for trays serving inmate meals) and is developing an annual contract for this item.</p> <p>The department is considering a “non-compliance” policy to present to Commissioners Court that will outline the steps to be taken when a purchase is made by a department outside the procurement process.</p> <p>The department agrees that a periodic review of purchase orders to vendors should be used to determine the potential need for an annual contract. This responsibility falls to the individual buyers and all will be trained to perform this review in the third quarter of each fiscal year.</p> <p>The department agrees that the Excluded Party Listing Service (EPLS) should be used to confirm that a vendor is compliant prior to award. This process has been in place since January 2012.</p>
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



*Jan 9-7-12*  
*JP 9/10*

**Finding Number:** 11-Pur-01-03  
**Date:** March 22, 2012  
**Audit:** Purchasing Department – Pricing & Negotiation  
**Auditor(s) Assigned:** JK

<p><b>Finding:</b></p>	<p><b>Policies and Procedures</b></p> <ul style="list-style-type: none"> <li>• Written procedures (or Dallas County Code) were not produced for pricing/negotiation aspects of inter-governmental contracts, cooperative purchasing agreements, and equipment maintenance agreements.</li> <li>• Retention of documents for professional service contracts handled by other departments is not addressed by Dallas County Code Sec. 94-253.</li> <li>• Procedures (Dallas County Code) for the purchase of insurance, high technology items, and special services have not been updated since 2000.</li> <li>• Procedures (Dallas County Code) for sole source awards do not address timelines for reevaluation and re-briefing period.</li> <li>• Practices for testing provisions of cooperative base contracts do not include verification of insurance.  <b>Response:</b> Procedures for verification of insurance on cooperative contracts have been addressed.</li> <li>• Dallas County Code has not been updated to reflect the automated requisition process.</li> <li>• Dallas County has chosen to opt for a lower competitive bid threshold (\$25,000) than higher statutory amount (\$50,000) to increase competition and obtain products for lower prices. <b>(Status:</b> October 25, 2011 court order increased the threshold to <b>\$50,000.</b>)</li> <li>• Practice of evaluating the surplus inventory listing to prevent unnecessary purchases is not evidenced.</li> <li>• Documentation for county standard specification of furnishings, equipment or vehicles is not updated for comparison of grant funded purchases.</li> </ul>
<p><b>Work paper Reference:</b> (or other method by which finding was identified)</p>	<p>Work paper 1.d, 1.1.d1, 1.d2, and 3.A/3.C  Statutes, Dallas County Code, and Purchasing Policies and Procedures  Purchasing Roundtable Discussion document dated May 8, 2008  Court Order No. 2000-281 dated February 8, 2000</p>
<p><b>Condition:</b> (Describe the current condition)</p>	<p>Procedurally department submit requisitions to Purchasing. In practice Purchasing department assigns the requisitions based on commodity/service type to various buyers. (A buyer assigned list is published on the Purchasing Department’s website). Buyers normally review the requisitions based on the date they received as time permits. Emergency items are processed first.</p> <p>If the goods or services are available through an approved governmental procurement program, purchases may occur without separate research and analysis by Purchasing for lower available prices. Purchase approval is not conditioned on existence of standard county contractual clauses.</p> <p>Records retention differs for type of activity. Most purchasing activity falls under FE (Fiscal Year End) of award + 3 years. Per section 4.1, <b>LOCAL SCHEDULE GR (3rd edition)</b>, Texas State Library and Archives Commission.</p> <p>Logs are not maintained with dates and timelines for review and renewal of Sole Source court orders. Annual renewal of Sole Source court orders is not completed. (Statutes require Commissioners Court order for each contract.)</p> <p>Dallas County Code does not reflect current automated requisition / purchase order processes. Other policies and procedures (Code) are not review periodically for updates to business processes.</p>



<p><b>Criteria:</b> <b>(Describe the optimal condition)</b></p>	<p>Procedures (Dallas County Code) should be periodically updated and used for staff training and subsequent review by supervisor to promote compliance with statutes and to ensure Dallas County receives the best price. Complete and accurate documentation is retained for all purchases.</p> <p>Procurement procedures include bi-annual recertification of sole source awards.</p> <p><b>V.T.C.A., L.G.C., § 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND SERVICES.</b> (a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:</p> <ul style="list-style-type: none"> <li>(1) landscape maintenance;</li> <li>(2) travel management; or</li> <li>(3) recycling.</li> </ul> <p>(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest and best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.</p> <p>(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.</p> <p>(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. <u>In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.</u></p> <p>(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.</p> <p><b>Dallas County Code, Sec. 94-157. Sole source awards.</b></p> <ul style="list-style-type: none"> <li>(a) Sole source contracts may be awarded pursuant to V.T.C.A., Local Government Code § 262.024.</li> <li>(b) All recommendations for award to sole source supplies must first be briefed to the commissioners court. The briefing should include a three-year history of the county's experience with the company and product, cost considerations including increase/decrease in demand, etc.</li> <li>(c) If the commissioners court approves the recommendation, a sole source court order must be presented for award. The court order must include the following:             <ul style="list-style-type: none"> <li>(1) Name of company;</li> <li>(2) Product of service;</li> </ul> </li> </ul>





- (3) Cost;  
 (4) Contract period.

**V.T.C.A., L.G.C., § 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING.**

(a) Any law that requires a county to follow a competitive procurement procedure in making a purchase requiring the expenditure of \$50,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

**V.T.C.A., L.G.C., § 271.102. COOPERATIVE PURCHASING PROGRAM PARTICIPATION.** (a) A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization.

**V.T.C.A., Government Code, 791.001. PURPOSE.** The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.

**Dallas County Code, Sec. 94-214. Intergovernmental contracts.**

All of the county intergovernmental contracts and agreements shall be governed by the InterLocal Cooperation ACT, V.T.C.A., Government Code § 791.001 et seq.

**V.T.C.A., L.G.C., § 262.011 (j)** To prevent unnecessary purchases, the county purchasing agent, with the approval of the commissioners court, shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The county purchasing agent shall furnish to the county auditor a list of transferred supplies, materials, and equipment.

**V.T.C.A., L.G.C., § 262.024. DISCRETIONARY EXEMPTIONS.** (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;
- (2) an item necessary to preserve or protect the public health or safety of the residents of the county;
- (3) an item necessary because of unforeseen damage to public property;
- (4) a personal or professional service;
- (5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;
- (6) any land or right-of-way;
- (7) an item that can be obtained from only one source, including:
  - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
  - (B) films, manuscripts, or books;
  - (C) electric power, gas, water, and other utility services; and
  - (D) captive replacement parts or components for equipment;
- (8) an item of food;



(9) personal 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; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:

(1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) if an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

**V.T.C.A., L.G.C., § 262.023. COMPETITIVE REQUIREMENTS FOR CERTAIN PURCHASES.**

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2267, Government Code.

**Dallas County Code, Sec. 94-253. - Professional services.**

(a) A committee shall develop, with the commissioners court approval, criteria for uniformly evaluating professional service proposals, prior to their distribution for solicitation of request for proposal (RFP). The committee shall consist of representatives of the commissioners court, purchasing department, affected departments, as appropriate, and the DBE coordinator. After RFP distribution for solicitation, procedural questions from interested professionals shall be directed to the purchasing agent or the DBE coordinator. Technical questions shall be directed to the specified department.

(b) Prospective professional service providers shall submit with their RFP's:

(1) Letter of assurance (see section 94-304(1) or (2)) stating that the undersigned bidder/proposer hereby assures that the firm will document a good faith effort (see section 94-302) to comply with the county's policy regarding disadvantaged businesses in subcontract and/or subconsultant awards;



	<p>or                  (2) A letter of assurance (see section 94-304(1), (2)) certifying that the undersigned bidder/proposer performs the entire contract with present work forces, without the use of subcontractors, subconsultants, and that sufficient information is provided to aid county personnel in determining that it is the company's normal business practice to do so, and the company will demonstrate hiring and promotional practices which provide opportunities for work experience and encourage the professional development of disadvantaged employees.</p> <p><b>Uniform Grant Management Standards (UGMS)</b> requires that grant purchases must conform to the policies established by county for general operations.</p>				
<p><b>Cause: (Describe the cause of the condition if possible)</b></p>	<p>Purchasing refers to Texas statute as their written policies/procedures.                  Statutes do not reflect detailed procedures for pricing and/or negotiation for all purchases.</p>				
<p><b>Effect: (Describe or quantify any adverse effects)</b></p>	<p>Lack of updated written policies and procedures fosters inconsistent application of rules and non-compliance with state purchasing laws.                  Diminished transparency and effectiveness in procurement pricing and negotiation process.</p>				
<p><b>Recommendation: (Describe corrective action)</b></p>	<p>The Purchasing Department should expand written policies and procedures (Dallas County Code) for all Dallas County purchasing procurement actions, including pricing and negotiation especially for:</p> <ol style="list-style-type: none"> <li>1) Verifying compliance with cooperative base contracts</li> <li>2) Renewal of sole source court orders</li> <li>3) Pricing / negotiation</li> <li>4) Standard Specifications</li> </ol> <p>Policies and procedures should be updated to reflect changes due to automation and/or statutory changes and incorporate into the Dallas County Code as applicable upon approval by Commissioners Court.</p>				
<p><b>Responsible Department or Organization:</b></p>	<p>Purchasing Department</p>				
<p><b>Management's Response:</b></p>	<table border="1" style="width: 100%;"> <tr> <td style="width: 25%;"><input checked="" type="checkbox"/> Agree</td> <td style="width: 25%;"><input type="checkbox"/> Disagree</td> <td style="width: 25%;"><b>Respondent:</b> Shannon Brown, Purchasing Agent</td> <td style="width: 25%;"><b>Date:</b> 9/4/2012</td> </tr> </table>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b> Shannon Brown, Purchasing Agent	<b>Date:</b> 9/4/2012
<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b> Shannon Brown, Purchasing Agent	<b>Date:</b> 9/4/2012		
<p><b>Comments:</b></p>	<p>The Purchasing Department agrees with this recommendation. A task force comprised of individuals from Purchasing, Commissioners Court Administration, and user departments will be created to review and recommend changes to review the policies related to the evaluative procurement process, professional service contracts, and routine purchases. The Auditor's Office will be invited to provide a member of the task force.</p>				
<p><b>Disposition:</b></p>	<table border="1" style="width: 100%;"> <tr> <td style="width: 33%;"><input checked="" type="checkbox"/> Audit Report</td> <td style="width: 33%;"><input type="checkbox"/> Oral Comment</td> <td style="width: 33%;"><input type="checkbox"/> Deleted From Consideration</td> </tr> </table>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration	
<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration			

Jun 9-7-12  
VP 9/10



County Auditor

Dallas County, Texas

**Finding Number:** 11-Pur-01-04  
**Date:** March 28, 2012  
**Audit:** Purchasing Department – Pricing & Negotiation  
**Auditor(s) Assigned:** JK

<b>Finding:</b>	<p><b>Cost / Price Analysis</b> Inquiries of the Purchasing Department and responses to the Internal Control Questionnaire (ICQ) regarding cost / price analysis revealed:</p> <ul style="list-style-type: none"> <li>• Due diligence is conducted prior to the award of bid solicitations. Costs/prices are evaluated through the formal solicitation process and/or in compliance with Purchasing policies and procedures, but Purchasing does not monitor or verify prices, discounts, or rebates after the contracts have been awarded to the vendor.</li> <li>• Best and Final Offers (BAFO) are part of the negotiation process when authorized by statute with Purchasing coordinating the BAFO process, and placing reliance on the evaluation committee (user departments as the content experts) to assist in the evaluation and recommendation process. Committee Chair (Purchasing) defers to entire committee for questions and decision timing. The negative impact on pricing for decision delays is not evidenced.</li> <li>• Market prices are randomly checked prior to the renewal of contracts to determine if the extension is in the best interest of Dallas County. Documented evidence of random checks was not presented for review.</li> <li>• Contracts executed by cooperatives used by Dallas County may contain provisions which allow for price adjustments. Price analysis/comparisons including pricing impact for earlier effective dates or other options (maintenance, volume, etc.) is not evidenced.</li> <li>• Competitive bidding of quote solicitation is applied consistently through use of RFP, RFI and RFQ; review of posted cooperative contracts, inquiry of interlocal agreements; or quote solicitations. Instances of discretionary exemptions are routinely briefed and approved by order of commissioners court.</li> <li>• Asset trade-ins may be considered for cost/price analysis when requesting department included information. Although, purchasing agent has access to listing of property inventory generated from PO's for independent questioning of potential trade-in items, few trade-ins are reflected in final pricing.</li> <li>• Emergency purchases in case of public calamity or unforeseen damage to public property are approved as may be required by order of the commissioners court. Best pricing for the emergency items is dependent on specific situation. All instances reviewed indicate due diligence.</li> <li>• Non contract product or service is included on open purchase orders for contract vendors. Result is changing departmental needs may not be included in contract negotiations for expected volume and best pricing.</li> </ul>
<b>Work paper Reference: (or other method by which finding was identified)</b>	<p>Workpaper 5.A. and 2.C. Email from Purchasing Department Responses to ICQ</p>
<b>Condition: (Describe the current condition)</b>	<p>Purchasing is involved in the cost/price analysis of bids solicited/awarded by Dallas County, but to a limited extent for state and cooperative agreements handled by the other entities.</p> <p>Purchasing coordinates the preparation of RFP's and RFQ's with user departments and IT Services providing the necessary expert content and technical knowledge with the District Attorney (DA) Civil section providing the required legal review. Purchasing also facilitates the evaluation of the</p>



	<p>RFP's and RFQ's with the evaluation committee, but does not formally participate on the evaluation committee. Purchasing coordinates the BAFO process between the evaluation committee and the susceptible vendor(s). Purchasing submits briefings and court orders to Commissioners Court along with a recommendation from Purchasing and the evaluation committee.</p> <p>Prior to the expiration of contracts eligible for renewal, Purchasing will randomly check market prices for bid items. Purchasing will contact the user departments for feedback on the bid vendors as well as the contract manager for RFP's. Purchasing submits briefings and court orders to Commissioners Court for consideration.</p> <p>Currently, there are no methods or tools that the Purchasing department uses to monitor the contractual terms after the award of the contract, especially prices, discounts, and rebates. Also off purchases are approved on an exception basis as reported by the County Auditor but not tracked as new information for bid renewals.</p> <p>Procurement procedures are not documented for assistant Purchasing agents reference regarding guidance on the various aspects of cost / price analysis.</p>
<p><b>Criteria: (Describe the optimal condition)</b></p>	<p>To ensure Dallas County receives the best price, the Purchasing Department needs to be able to monitor various prices and contractual terms, such as discounts and rebates, per bid specification and or quotes.</p> <p>Best practices regarding purchase policies of large government operations include:</p> <ul style="list-style-type: none"> <li>• Tracking the quality, service and price performance of vendors.</li> <li>• Receiving ongoing training and supervision, the necessary analytical, business knowledge, and negotiation skills for the Assistant Purchasing agents.</li> <li>• Identifying current spending areas for the greatest opportunities for improvement through a thorough analysis of purchase transactions with emphasis on higher risk areas.</li> <li>• Developing an annual cost reduction plan for significant contracts.</li> <li>• Utilizing computer system to handle tasks and automate the price analysis process.</li> <li>• Centralizing procurement activities to one location to better manage actions.</li> <li>• Conducting negotiation with vendors considering market opportunity, volume, payment terms, and reliability.</li> <li>• Keeping product information and prices current and maintaining complete catalogues.</li> </ul> <p>Procurements are conducted in accordance with state statutes and Dallas County Codes.</p> <p><b>V.T.C.A., L.G.C., § 262.111 (f)</b> A purchase made by the county purchasing agent shall be paid for by an electronic transfer, check, or warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor an electronic transfer, check, or warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.</p>
<p><b>Cause: (Describe the cause of the condition if possible)</b></p>	<p>Lack of standardized methods and tools to monitor prices, discounts, and/or rebates. Lack of updated written departmental procurements policies/procedures.</p>
<p><b>Effect: (Describe or quantify any)</b></p>	<p>Dallas County may not receive the best overall value for the least cost. Potential conflicts of interest may be undetected.</p>



<b>adverse effects)</b>	Contracts may not reflect needs of County or County may pay higher prices. Increased departmental expenditures for items invoiced without full discount as stated in the state, cooperative, interlocal, and/or U.S. Communities agreements.				
<b>Recommendation: (Describe corrective action)</b>	<ul style="list-style-type: none"> <li>• Develop methods and tools necessary to monitor prices, discounts and track rebates.</li> <li>• Provide training and written procurement policies/procedures to staff.</li> <li>• Monitor market prices periodically to determine whether the County is receiving the lowest price offered prior to the use of available procurement programs with the State and other government entities.</li> <li>• Perform analysis of master agreement prices annually prior to continued use of existing contracts.</li> <li>• Instruct buyers to verify offered price is the applicable calculated price based on the master agreement discount percentage off catalog prior to issuing PO for non-open PO items.</li> </ul>				
<b>Responsible Department or Organization:</b>	Purchasing Department				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<b>Respondent:</b>	Shannon Brown, Purchasing Agent	<b>Date:</b> 9/4/2012
<b>Comments:</b>	<p>The Purchasing Department agrees with the recommendations as stated in the first, second, fifth, and sixth (Audit note: Sixth bullet moved to template 11-Pur-01-05) bullet points. Additional commentary is provided for the remaining items.</p> <p>The use of cooperative purchasing opportunities has been discussed in previous responses. The statute related to County procurement uses the phrase "lowest and best" not just lowest. Cooperative purchasing meets the statutory requirement for competitive procurement and often allows for immediate purchase rather than completing a process that could add a significant amount of time to the procurement.</p> <p>The majority of Dallas County purchases are made through contracts solicited and awarded by Dallas County Commissioners Court either through the straight bid or evaluative process. The decision to exercise an option on a contract is based on the market conditions, the end user department's need for the goods/services and experience with the vendor, and the vendor's desire to continue providing the goods/services at the existing terms and prices.</p>				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration	

June 9/9/12  
OP 9110



County Auditor

Dallas County, Texas

**Finding Number:** 11-Pur-01-05  
**Date:** March 28, 2012  
**Audit:** Purchasing Department – Pricing & Negotiation  
**Auditor(s) Assigned:** JK

<b>Finding:</b>	<p><b>Contract/Vendor Negotiations</b></p> <ul style="list-style-type: none"> <li>• State and cooperative agreements are handled by the respective entity that solicited / executed the agreement. While some cooperative agreements allow for individual negotiation, notations on Purchase Orders (PO) or documented evidence of negotiation by Purchasing was limited. Statutory intent is to expedite, consolidate for pricing, reduce processing costs but not remove responsibility for analysis.</li> <li>• Average contracts are for one year with 2 one year options to renew. Some service type contracts are established for five to seven years (Delinquent Tax collection Law firm, IT Desktop, Commissary Services, Depository contract, Merchant Services agreement, Lease of Cafeteria, etc.). Pricing benefits of longer term contracts should be highlighted and properly justified with changing economies.</li> <li>• User departments are relied on to develop and provide technical / expert content and ultimately evaluate request for proposal (RFP) and request for quotes (RFQ) solicitations. A level of independence should evaluate properly detailed justifications presented in a standardized format.</li> <li>• No process is in place to ensure bid evaluators have submitted ‘disclosure of outside income’ forms to the County Administrator prior to participating on the evaluation committee.</li> <li>• Timelines for quote or bid specifications vary significantly. No standard County-wide risk or prioritization checklist; workflow deadline or communication tool tracking slowdown/deal breakers in committee is established.</li> </ul>
<b>Work paper Reference: (or other method by which finding was identified)</b>	<p>Workpaper 5.A. and 2.C. Email from Purchasing Department Responses to ICQ</p>
<b>Condition: (Describe the current condition)</b>	<p>Purchasing is involved in the cost/price analysis of bids solicited/awarded by Dallas County, but to a limited extent for state and cooperative agreements handled by the other entities.</p> <p>Purchasing coordinates the preparation of RFP’s and RFQ’s with user departments and IT Services providing the necessary expert content and technical knowledge with the District Attorney (DA) Civil section providing the required legal review. Purchasing also facilitates the evaluation of the RFP’s and RFQ’s with the evaluation committee, but does not formally participate on the evaluation committee. Purchasing coordinates the BAFO process between the evaluation committee and the susceptible vendor(s). Purchasing submits briefings and court orders to Commissioners Court along with a recommendation from Purchasing and the evaluation committee.</p> <p>Prior to the expiration of contracts eligible for renewal, Purchasing will randomly check market prices for bid items. Purchasing will contact the user departments for feedback on the bid vendors as well as the contract manager for RFP’s. Purchasing submits briefings and court orders to Commissioners Court for consideration.</p> <p>Currently, there are no methods or tools that the Purchasing department uses to monitor the contractual terms after the award of the contract, especially prices, discounts, and rebates. Also, off contract purchases are approved on an exception basis as reported by the County Auditor but not tracked as new information for bid renewals.</p> <p>Procurement procedures are not documented for assistant Purchasing agents reference regarding guidance on the various aspects of cost / price analysis.</p>



<p><b>Criteria:</b> (Describe the optimal condition)</p>	<p>To ensure Dallas County receives the best price, the Purchasing Department needs to be able to monitor various prices and contractual terms, such as discounts and rebates, per bid specification and or quotes.</p> <p>Best practices regarding purchase policies of large government operations include:</p> <ul style="list-style-type: none"> <li>• Tracking the quality, service and price performance of vendors.</li> <li>• Receiving ongoing training and supervision, the necessary analytical, business knowledge, and negotiation skills for the Assistant Purchasing agents.</li> <li>• Identifying current spending areas for the greatest opportunities for improvement through a thorough analysis of purchase transactions with emphasis on higher risk areas.</li> <li>• Developing an annual cost reduction plan for significant contracts.</li> <li>• Utilizing computer system to handle tasks and automate the price analysis process.</li> <li>• Centralizing procurement activities to one location to better manage actions.</li> <li>• Conducting negotiation with vendors considering market opportunity, volume, payment terms, and reliability.</li> <li>• Keeping product information and prices current and maintaining complete catalogues.</li> </ul> <p>Procurements are conducted in accordance with state statutes and Dallas County Codes.</p>				
<p><b>Cause:</b> (Describe the cause of the condition if possible)</p>	<p>Lack of standardized methods and tools to monitor prices, discounts, and/or rebates. Lack of updated written departmental procurements policies/procedures. Incomplete coordination between County Administrator and Purchasing regarding financial disclosures of evaluation team members. Buyers issue PO's for non-open PO items without verification that master agreement discounts are reflected in pricing. State, cooperative, interlocal, and/or U.S. Communities agreements continued for renewal periods without detailed review of pricing and urgent procurement needs.</p>				
<p><b>Effect:</b> (Describe or quantify any adverse effects)</p>	<p>Dallas County may not receive the best overall value for the least cost. Potential conflicts of interest may be undetected. Increased departmental expenditures for items invoiced without full discount as stated in the state, cooperative, interlocal, and/or U.S. Communities agreements.</p>				
<p><b>Recommendation:</b> (Describe corrective action)</p>	<ul style="list-style-type: none"> <li>• Perform due diligence in verifying best prices available from top recommended cooperative purchase agreements considering location, insurance and maintenance (if applicable).</li> <li>• Specifically denote for commissioners court approval contract terms, evaluate periodically and recommend cancel/rebid if market conditions change.</li> <li>• Develop expected timeline for procurement process (start to finish) and provide status report quarterly. Include recommended action for any solicitations that appear deadlocked in committee.</li> <li>• Confirm with County Administrator that bid/RFP/RFQ evaluators (including assistant Purchasing agents) have submitted 'disclosure of outside income' forms prior to providing bid/RFP/RFQ packets for evaluation.</li> </ul>				
<p><b>Responsible Department or Organization:</b></p>	<p>Purchasing Department</p>				
<p><b>Management's Response:</b></p>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<p><b>Respondent:</b></p>	<p>Shannon Brown, Purchasing Agent</p>	<p><b>Date:</b> 9/4/2012</p>
<p><b>Comments:</b></p>	<p>The Purchasing Department agrees that contractual terms/conditions that are not routine should be noted for Commissioners Court. This process is already in place through the briefing process.</p> <p>As a part of the policy review noted in item 11-Pur-01-03, a general timeline for various procurement methods will be established. Beginning in October 2012, a quarterly report on outstanding procurements will be provided on the Commissioners Court informational agenda.</p>				
<p><b>Disposition:</b></p>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		