



DALLAS COUNTY PURCHASING MANUAL

Adopted: _____, 2016

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FORWARD

This document is prepared in accordance with Texas Local Government Code, §262.011 which requires the Purchasing Agent to adopt rules and procedures necessary to implement the Purchasing Agent's duties, subject to approval by Commissioners Court.

This document is intended to be a general guideline for Dallas County employees addressing purchasing requirements and general operating procedures. End-users are encouraged to contact the Purchasing Department with questions concerning the procurement process. The Purchasing Department's goal is to assure that end-users are able to obtain needed goods and services in a timely, cost effective manner in accordance with the Texas Local Government Code and other related statutes.

This set of rules and procedures is current as of the date of publication. As circumstances dictate, this document will be revised and updated based on legislative actions.

INTRODUCTION

Background The Dallas County Purchasing Manual contains the purchasing policies and procedures adopted by the Dallas County Commissioners Court for procurement by County officials, departments, and employees. These policies and procedures are required to be followed in order to comply with legal requirements established by Texas law and to conform to the ethical standards adopted by Dallas County. If a requirement conflicts with state law, State of Texas Law prevails. The Purchasing Director is granted the authority to adopt forms and establish procurement procedures consistent with this Purchasing Manual and applicable laws.

This Manual is a guide to enable County elected officials, department heads and staff, as well as vendors, contractors and members of the public, to understand the County purchasing procedures. It was drafted and adopted for the purpose of establishing legally and financially sound procedures and practices, and to promote fairness, transparency and confidence in the County's procurement process.

Mission The mission of the Dallas County Purchasing Office is to:

To provide our customers with professional service, guidance, and advice in support of county departmental program goals. The Purchasing Department will strive for cost-effective and value added functions resulting in cost savings to the citizens of Dallas County with a commitment to excellence.

Goals of Public

Purchasing **Public purchasing has several goals including:**

The Purchasing Director is appointed by the Dallas County Commissioners Court and must adhere to the laws mandated in Texas Local Government Code 262 and 271 governing the acquisition of goods and services for Dallas County. The Purchasing Director works directly with the Commissioners Court and may recommend for adoption policies and procedures consistent with State statutes. The Commissioners Court signs contracts and approves all formal competitive purchases. The Purchasing Directors' authority is derived directly and indirectly from the Texas State Statutes, their interpretation by the Attorney General, and policies set forth by the Commissioners Court. It is the responsibility of the Purchasing Director to perform or supervise the following:

- Acquisitions of all goods and services
- Prepare and issue solicitations and insure that the selection process is in compliance with the Texas Local Government Code and County Policies and Procedures
- Issue purchase orders for goods and services
- Facilitate the process of acquiring professional services not exempted by Commissioners Court order through a competitive process

SECTION 1
HOW TO USE MANUAL

GENERAL GUIDELINES FOR PURCHASING

A. In order to determine the appropriate purchasing procedures, and the relevant Chapters in this Manual:

1. First determine whether the County is required to make the purchase by competitive procurement. In general, a purchase of goods or services, including construction projects, for an amount of more than \$50,000 has to be competitively procured using one of the methods allowed by statute, unless an exemption applies. In general, Professional Services governed by the Professional Services Procurement Act (including services of architects and engineers) are exempt from a competitive procurement requirement, and other types of professional services can be exempted by the Commissioners Court.

Texas Local Government Code §262.024 describes “Discretionary Exemptions” as:

(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 Chapter 17, Subchapter F, 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.

Professional Services adheres to Texas Government Code §2254.

"Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

(i) accounting;

(ii) architecture;

(iii) landscape architecture;

(iv) land surveying;

(v) medicine;

(vi) optometry;

(vii) professional engineering;

(viii) real estate appraising; or

(ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;

(ii) an architect;

(iii) a landscape architect;

(iv) a land surveyor;

(v) a physician, including a surgeon;

(vi) an optometrist;

(vii) a professional engineer;

(viii) a state certified or state licensed real estate appraiser; or

(ix) a registered nurse.

2. If competitive procurement is required, then unless a contract for the goods or services already exists, the items required to be purchased through a competitive procurement procedure will be purchased as described in Sections 5, 8, 9 and 10 for Goods and Services or Section 12 for Construction Projects. If payment will be through Certificates of Obligation, then the competitive bid procedures in the Certificate of Obligations Act or the procedures in Chapter §2269 for Construction Projects must be used. If anticipation notes will be used for paying for a construction project, then there are limits on the use of the anticipation notes.
3. If competitive procurement is not required, then the Open Market purchasing methods established by the County Purchasing Agent must be followed. See Section 7.
4. If the purchase has not been authorized in a Department's budget, then a budget amendment must be obtained by the user Department from Commissioners Court before the Purchasing Department can proceed with the acquisition of the goods and services. Requests for a budget amendment must be submitted to the Auditor's Office.
5. The procedures to be followed in requesting a purchase from Purchasing Department are set out in Section 1.
6. Special Purchase Considerations.
 - (a) In determining whether the contract amount exceeds \$50,000, and must be procured through a competitive process, certain purchases must be added together to determine the amount of purchase. The County is prohibited from making separate, sequential or component purchases for the purpose of avoiding the competitive procurement requirement. However, the separate purchase of office supplies by an individual department are not considered to be part of a single purchase and single contract by the County, if made without a specific intent to avoid the competitive procurement requirements.
 - (b) Special requirements may apply if the funds used are from Certificates of Obligation, or Anticipation Notes. If funds to be used are from a State or Federal grant, check the grant program requirements to determine if there are special procurement requirements, such as solicitations for Disadvantaged Business Enterprises.
 - (c) Professional Services – Professional Services of an architect, engineer or surveyor are automatically exempted from competitive procurement under Chapter §2254 of the Texas Government Code and Chapter §262.022 (5) of the Local Government Code. Requests for Qualifications or Requests for Proposals are generally used to determine the best qualified provider. (See Section 1). Other professional services may be exempted from competitive procurement by the Commissioners Court. (See Section 1).
 - (d) The County's MBE/WBE procedures must be followed in the procurement process. See Section 17.

- (e) Purchases on an “As Needed” Basis - acquisition of goods or services on an “as needed” basis may be authorized in appropriate instances by a blanket purchase order (Pick-up PO) for General Goods or Services (See Section 5), under a job order contract for Construction Projects (See Section 12) or under an IDIQ Contract for professional services (See Section 1)
- (f) Insurance, high technology items, landscape maintenance and other items may be obtained through competitive proposal as an alternative to competitive bid. See Section 1.
- (g) Emergency Purchases – in the case of a public calamity purchases needed promptly to relieve the necessity of the citizens or to preserve the property of the County may be approved with competitive procurement if the Commissioners Court grants and exemption. See Section 6(L).
- (h) Purchase Needed Due to Unforeseen Damage – an item necessary due to unforeseen damage to public property may be obtained without competitive procurement if the exemption is granted by the Commissioners Court.
- (i) Procurement to Protect Public Health or Safety – items necessary to preserve or protect the public health or safety may be purchases without competitive procurement if the exemption is granted by the Commissioners Court. No emergency situation has to exist for this exemption. See Section 1.
- (j) Purchase of Real Estate – the purchase of land, buildings and right of way may be exempted from a competitive procurement requirement by the Commissioners Court. The exemption must be granted before the purchase is made. See Section 1.
- (k) Purchases of Sole Source Items – an item available from only one (1) source may be purchased without competitive procurement if (1) the County Purchasing Agent provides a signed statement to the Commissioners Court that only one source of purchase exists, and (2) the Commissioners Court accepts the statement and grants an exemption. See Section 1.
- (l) Cooperative Purchasing – Purchases of goods and services, including those required to be competitively procured, may be procured through a Cooperative Purchasing Program (such as the TASB Buy Board) if the Commissioners Court has approved an Interlocal Contract with the Cooperative Purchasing Program or by piggy-backing on a procurement made by another governmental entity through an Interlocal Contract authorized by the Commissioners Court. The competitive procurement process followed by the Cooperative Purchasing Program or the other governmental entity will relieve the County from having to go through its own competitive procurement process. See Section 3.

- (m) Insurance Broker – The County may select an appropriately-licensed insurance agent as the sole broker of record to obtain proposals and coverage for insurance that provides necessary coverage and adequate limits of coverage in all areas of risk, including public official liability, property, casualty, workers' compensation and specific and aggregate stop-loss coverage for self-funded health case. The broker must be paid on a fee basis only, and cannot directly or indirectly receive and other remuneration from any other source for the placement of insurance business with the County.

B. Considerations of Health Insurance Provided by the Bidder

In purchasing items through a competitive bid process, if a county receives one or more bids from a bidder who provides reasonable health insurance coverage to its employees and requires a subcontractor that it intends to use to provide reasonable health insurance coverage to the subcontractor's employees, and whose bid is within five percent (5%) of the lowest and best bid price received by the County from a bidder who does not provide or require reasonable health insurance coverage, the Commissioners Court may give preference to the bidder who provides and requires reasonable health insurance.

C. Safety Record of Bidder Considered

In determining who is a reasonable bidder, the Commissioners Court account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such a firm, corporation, partnership or institution if:

- (i) the Commissioners Court has adopted a written definition and criteria for accurately determining the safety record of a bidder;
- (ii) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder, and
- (iii) the determinations are not arbitrary and capricious.

D. Contract with Person Indebted to County

The Commissioners Court may adopt rules permitting the County to refuse to enter into a contract or other transaction with a person who owes a debt to the County. The rules must be adopted by order entered into the minutes of the Commissioners Court, and after publishing notice in a newspaper of general circulation in the County. Debt includes delinquent taxes, fines and fees.

E. Criminal Penalties for Violation of Competitive Procurement Requirements

- 1. Under Texas Local Government Code §262.034, a county officer or employee commits an offense if he or she intentionally or knowingly makes or authorizes separate, sequential or component purchases to avoid the statutory competitive procurement requirements. An offense is a Class B misdemeanor.

2. A county officer or employee commits an offense if he or she intentionally or knowingly makes or knowingly violates the competitive procurement requirements described in this manual.

F. Bid Protest

If a bidder believes that an error or irregularity has occurred in the bid process that has resulted in an unfair advantage or unfair disadvantage to a prospective bidder, the bidder may file a bid protest by following the procedures referenced in Section 15.

SECTION 2 **DALLAS COUNTY PURCHASING AUTHORITY**

A number of County officials are involved in the County purchasing process. The purpose of this Chapter is to explain the roles of the County officials and departments in the purchasing process.

A. County Commissioners Court

The County Commissioners Court is the governing body of the County. It has the authority to:

1. establish the budget for the County for each fiscal year, including amounts to be used to pay for purchases included within the budget;
2. authorize the issuance of requests for proposals or requests for qualifications, for personal or professional services;
3. select, and authorize entering into a contract with, persons or firms providing personal or professional services, including contracts with architects, engineers and attorneys;
4. authorize the issuance of requests for bids, requests for proposals, and other procurement solicitations for a purchase of goods or services, that is required to be obtained through a competitive selection process;
5. select, and authorize entering into contracts with, vendors and contractors, for the sale of goods and services, that are required to be obtained through a competitive selection process;
6. authorize the issuance of requests for bids, requests for proposals, or other solicitations for the construction of a public work project that is required to be procured through a competitive procurement process;
7. select, and authorize entering into contracts with, contractors for the construction of public works projects that are required to be procured through a competitive procurement process;

8. appropriate funds to be used for the purchase of goods and services, the purchase of real property and the construction of public works, that are not already within the approved budget; and
9. supervise the purchasing activities of the County Purchasing Agent.

The Commissioners Court will generally authorize the County Judge, the County Purchasing Agent, or other designated person(s), to issue the solicitations, conduct evaluations, and make a recommendation to the Commissioners Court. The Commissioners Court may reserve to itself the authority to conduct interviews and evaluations. The Commissioners Court may reject all of the persons who responded to the solicitation or award the contract to a person or entity that it selects during a public Commissioners Court meeting. If a selection is made, the Commissioners Court will authorize the County Judge to execute a contract with the selected person.

Once the contract has been signed, the Commissioners Court must authorize the payment of each invoice submitted by the vendor, professional or contractor for payment.

For a description of the types of purchases that are required to be obtained through a competitive procurement process, See Sections 5, 8, 9 and 10.

10. Section 2252.908 of the Texas Government Code: An Act Addressing Disclosure of Interested Parties

Effective January 1, 2016, Dallas County, must comply with the “Disclosure of Interest Parties, requirements established under Section 2252.908 of the Texas Government Code as implemented by the Texas Ethics Commission. Briefly stated, all contracts requiring an action or vote by the governing body of the entity or agency before the contract may be signed (regardless of the dollar amount) or that has a value of at least \$1 million will require the on-line completion of Form 1295 "Certificate of Interested Parties", in accordance with Texas Government Code Statute §2252.908. Form 1295 is also required for any and all contract amendments, extensions or renewals. All business entities are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Step 1: Business Entity completes Form 1295 in electronic format on the Texas Ethics Commission website: (https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

Step 2: Upon receipt of a completed Interested Parties Disclosure Form, Texas Ethics Commission issues a Certification of Filing to the Business Entity and the Business Entity download(s), print, sign(s) and notarize(s) Form 1295. An authorized agent of the business entity will need to sign the printed copy of the form and have the form notarized.

Step 3: At the time of submission of the solicitation to Dallas County the Business Entity must submit the completed notarized Form 1295 with the Certification of Filing with their contract (i.e.: bid, rfp, rfq, soq, etc.) to Dallas County. Upon receipt, Dallas County may proceed with the award and/or execution of the contract.

Step 4: Not later than the 30th day after the date the contract has been signed by all parties, Dallas County must notify the Texas Ethics Commission (in electronic format) of the receipt of (1) Form 1295, and (2) the Certification of Filing.

Step 5: Not later than the 7th business day after receipt of the above notice, Texas Ethics Commission makes the disclosure available to the public by posting the disclosure on its website.

County Offices and Departments submitting contracts to Commissioners Court for award/execution are responsible for acknowledging and filing the Form 1295.

Definitions:

(a) “Contract” includes an amended, extended, or renewed contract.

(b) “Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

(c) “Controlling interest” In accordance with the Texas Ethics Commission, Chapter 46.3(c) and applicable to Texas Government Code §2252.908 - (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

(d) “Interested party” (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.

(e) “Intermediary” for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

(1) receives compensation from the business entity for the person’s participation;

(2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and

(3) is not an employee of the business entity.

To obtain additional information on Section 2252 and to learn more about the Texas Ethics Commission process to create a new account or to complete an electronic version of Form 1295 for submission with a signed contract, please go to the following website:

<https://www.ethics.state.tx.us/tec/1295-Info.htm>

Instructional Videos for Business Entities on how to file online can be found at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

B. The County Purchasing Agent

The Dallas County Purchasing Agent is hired by the Commissioners Court to perform the procurement functions prescribed by law for a County Purchasing Agent. The County Purchasing Agent is the head of the County Purchasing Department.

The County Purchasing Agent, under the supervision of the Commissioners Court, is authorized by statute to:

- 1) Purchase all supplies, materials and equipment required or used and contract for all repairs to property used, by the county, or a department, officer or employee of the County, except for purchases and contracts required by law to be made by a competitive procurement process;
- 2) Supervise all purchases made on competitive procurement and see that all purchases, supplies, materials and equipment are delivered to the property county officer or department in accordance with the purchase contract;
- 3) With the approval of the Commissioners Court, transfer County supplies, materials and equipment from a Chapter, department, officer or employee of the County who do not need or use them to a Chapter, department, officer or employee of the County requiring such supplies, materials, or equipment, in order to prevent unnecessary purchases. The County purchasing agent shall furnish the County Auditor with a list of transferred supplies, materials and equipment;
- 4) File with the County Auditor on July 1 of each year, an inventory of all of the County property on hand and with each Chapter, department, officer and employee of the County;
- 5) Adopt the rules and procedures necessary to implement the agent's duties subject to the approval of the commissioners court;
- 6) Cooperate with the purchasing agent of a municipality in the County to purchase any item in volume as may be necessary;
- 7) Adopt procedures that provide a competitive process for procurement, to the extent practicable under the circumstances, for an item not subject to a statutory competitive procurement requirement or for which no responsive bid was received;

- 8) Authorize the use of the competitive proposal process, instead of competitive bid, for high technology items, insurance, and other items which the County Purchasing Agent, with the consent of the Commissioners Court, determines is in the best interest of the County; and
- 9) Adopt rules for electronic bids or proposals, if used by the County, to ensure the identification, security and confidentiality.

C. The County Purchasing Department

The County Purchasing Agent is the head of the Purchasing Department and the staff of the County Purchasing Department assists the County Purchasing Agent in performing the agent's purchasing duties.

The County's Purchasing Department is responsible for making purchases of supplies, materials, equipment, services and for repairs to County owned property, except in cases where competitive procurements are required by law. It is also responsible for supervising all purchases made through competitive procurement.

All purchases made by competitive procurement are made by and through the Commissioners Court and signed by the County Judge. Such purchases shall be supervised by the County Purchaser Agent. See Sections 5, 8, 9 and 10 for a description of purchases that have to be competitively procured.

D. County Auditor and Payment for Purchases

The Dallas County Auditor does not have purchasing authority, but has the authority, and the duty, to authorize the payment of purchases that have been made in compliance with law, including the requirements set forth in this Chapter.

The 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 the by County Purchasing Agent, on the basis of a competitive procurement authorized by the Commissioners Court.

E. Failure to Comply with Purchasing Requirements

The purchasing authority of the Purchasing Agent is established primarily by §262.0111 and §262.0115 of the Texas Local Government Code. No one in the County may purchase supplies, materials and equipment that the Purchasing Agent is authorized to purchase, except through the Purchasing Department.

No officer, department or employee of the County has the authority to make purchases of supplies, materials and equipment for the use of the County and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county

by contract, except through the Purchasing Department. An officer making a purchase out of fees of office in violation of this provision may not deduct the amount of the purchase from the amount of any fees of office.

A person, including an officer, agent or employee of the County of a department or Office of the County, commits an offense if the person violates these requirements. An offense is a misdemeanor punishable by a fine of not less than \$10 and nor more than \$100. Each act in violation of these requirements is a separate offense.

F. Criminal Penalties for Violation of Competitive Procurement Requirements

Chapter 262 of the Texas Local Government Code provides that:

1. A county officer or employee commits an offense if he or she intentionally or knowingly makes or authorizes separate, sequential or component purchases to avoid the statutory competitive procurement requirements. The offense is a Class B misdemeanor.
2. A county officer or employee commits an offense if he or she intentionally or knowingly makes or knowingly violates the competitive procurement requirements other than those described above in Section 1. The offense is a Class C Misdemeanor.

**SECTION 3
PURCHASING LAWS**

A. Govt. Code Chapter 2254 – Professional Services Procurement Act

Counties may not bid contracts for professional services. These contracts instead must be awarded on the basis of “demonstrated competence and qualification for the type of professional services to be performed.” Fees must be “fair and reasonable,” consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law. “Professional services” includes services within the scope of the practice of: accounting, architecture, optometry, professional engineering; this includes services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or registered professional engineer in connection with his or her professional employment or practice. Purchasing may be requested by the court to post a request for qualifications for professional services.

B. Local Gov’t Code Chapter 271, Subch. D – Purchase Under State Contract

The County may satisfy its obligation for competitive procurement by, purchasing goods and services through a State purchasing program established by the Texas Comptroller as described in Section 271,082 of the Texas Local Government Code.

The county may participate by adopting a resolution. The contents required in the resolution are stated in the statute. A county that purchases under state contract and other authorized purchasing

cooperatives satisfies all competitive bidding laws.

C. Local Gov't Code Chapter §171 – §171.002 Conflict of Interest

Ownership of certain property or business interests may require that a local public official refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision or act involves the business interests or property owned by the public official or by a person related to the public official within the second degree of consanguinity or affinity.

“Local public official” includes members of the county governing body or other county officers, whether elected or appointed, paid or unpaid.

A person is deemed to have a substantial interest in a business entity” if”:

- (1) Ownership of ten per cent (10%) or more of voting stock or shares of the business entity, or ownership of \$2,500 or more of the fair market value of the business entity; or
- (2) Proceeds received from the business entity exceed ten per cent (10%) of the person’s gross income for the prior year.
- (3) A person is deemed to have a substantial interest in real property if the interest, whether involving equitable or legal ownership, has a fair market value equal to or exceeding \$2,500. A local public official is deemed to have a substantial interest in the business entity or in land if a person related to the official within the second degree by consanguinity or affinity has a substantial interest in said business entity or land as defined above.

If the local public official has a substantial interest in a business that seeks to do business with the county, the official should file with the county clerk an affidavit stating clearly the nature and extent of his interest. The public official must then abstain from participation in any matter involving or between the county and the business in which he has the substantial interest. In particular, this includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business or contracts with the county. An official may not knowingly act as a surety on any official bond required of an officer of the county. A violation of any of these is a crime (CLASS A misdemeanor).

The County Commissioners’ Court may, however, contract for services or personal property with a business entity in which a member of the court has a substantial interest if the business entity (1) is the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners’ Court, and (2) bids on the contract.

The Commissioners’ Court must take a separate vote on any budget item that is specifically concerned with a contract involving a business entity in which a member of the Court has a substantial interest. The Commissioner having the substantial interest may not participate in that separate vote; he may, however, vote on the final budget if:

- (1) he has otherwise complied with the requirements of Chapter 171, some of which are indicated above, and
- (2) the matter regarding the business entity with which the member is concerned by virtue of his substantial interest has been resolved.

D. Local Gov't Code Chapter §262, Subch. A – County Contracting Agent

The Commissioners' Court may at its discretion appoint an agent with authority to contract on behalf of the county for (1) erecting or repairing county buildings; (2) supervising same; or (3) any other purpose authorized by law. Any contract or other act of such an agent that is properly executed on behalf of the county and is within the agent's authority is binding on the county for all purposes.

E. Texas Local Government Code §262.0115 – Purchasing Agents in Counties with Population of More than 100,000:

(a) In a county with a population of more than 100,000, the commissioners court may employ a person to act as county purchasing agent. However, this section does not apply to a county that has appointed a purchasing agent under Section 262.011 and that has not abolished the position as authorized by law. (b) A purchasing agent employed under this section serves at the pleasure of the commissioners court. (c) The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions. (d) Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for a purchasing agent under Section 262.011 and for any administrative function of the county auditor in regard to county purchases and contracts and shall administer the procedures prescribed by law for notice and public bidding for county purchases and contracts. (e) A county that has established the position of county purchasing agent under this section may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent regarding the notice for and opening of competitive bids or proposals under this chapter and Chapter 271.

The County Purchaser may have assistants. The agent and his/her assistants may have any help, equipment, supplies and/or traveling expenses that may be approved and considered advisable by the Commissioners Court.

F. Local Gov't Code Chapter §263, Subch. D – Disposition of Salvage or Surplus Property

Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

Surplus or salvage property may be sold by competitive bid or may be auctioned. It also may be offered as a trade-in on new property of the same general type. If the commissioners' court cannot sell or trade in the property, the property can be destroyed. (Formerly Act. 664-7)

G. Local Gov't Code Chapter §262, Subch. C – County Purchasing Act

This portion of the Local Government Code is a comprehensive County – Purchasing Statute.

The Statute Includes:

1. Competitive procurement requirements, procedures and exemptions;
2. An alternative competitive proposal procedure for certain goods and services (see §262.030);
3. Bond provisions; and
4. Penalties for violation.

The competitive procurement procedures must be strictly complied with unless a discretionary exemption set out in §262.024 applies and the Commissioners Court has granted the exception by order. If the statutory procurement requirements are not followed, any property tax paying citizen of the County may enjoin performance of the contract. See §262.033.

All separate, sequential or component purchases of items ordered or purchased by the same officer or department from the same supplier in any attempt to avoid the bidding requirements are treated as parts of a single purchase or contract. §262.023(c). Any county officer or employee who knowingly or intentionally makes or authorizes separate, sequential or component purchases to avoid the competitive procurement requirements is guilty of a CLASS B misdemeanor.

Intentional or knowing violation of any other provision of Chapter 262, Subchapter C is a CLASS C misdemeanor.

SECTION 4 **DEFINITIONS**

“Active Solicitation” – A contract solicitation is considered active from the time it is briefed to the Commissioners Court until ten (10) days after (a) the contract has been awarded by the Purchasing Department or the Commissioners Court, (b) the contract is executed between the County and winning respondent, or (c) the Commissioners Court determines not to go through with the solicitation, whichever represents the final act in any procurement process (an “Active Solicitation”). If the County withdraws a solicitation for the same or similar project (a “Related Solicitation”), the solicitation remains an Active Solicitation during the time period between the withdrawal and the reissue. Whether a solicitation constitutes a Related Solicitation will be determined at the discretion of the Purchasing Director.

“Bid Bond” – a bond issued by a surety which guarantees the obligation of a bidder who is awarded the contract to enter into a contract and furnish any required payment and performance bonds. Upon the bidder’s failure to do so, the government may draw down the full amount of the bond.

“Bid Guarantee or Bid Security” – an amount required by the government in cash, cashier’s check or wire transfer, in lieu of a bid bond, to secure the bidder’s performance of its obligations after award.

“Blanket Purchase Order” - means a purchase order with a vendor for a specified time period, specific commodity, and an estimated quantity to be delivered as requested. (For example, parts for vehicle maintenance as needed).

“Bond funds” - includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

“Civil engineering project” - means a project that is based primarily on civil engineering design and plans, including highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

“Competitive Sealed Bids” – bids submitted in a sealed envelope or container in response to a Request for Bids or Invitation to Bids, or submitted electronically where the government permits electronic submissions.

“Competitive Sealed Proposals” – proposals submitted in a sealed envelope or container in response to a Request for Proposals, or submitted electronically where the government permits electronic submissions.

“Component purchases” - means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

“Current funds” - includes money in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

“High Technology Item” – means a service, equipment, or good of a highly technical nature, including:

- (A) Data processing equipment and software and firmware used in conjunction with data processing equipment;
- (B) Telecommunications equipment and radio and microwave systems;
- (C) Electronic distributed control systems, including building energy management systems; and
- (D) Technical services related to those items.

“HUB” means historically underutilized businesses.

“Invitation For Bid (“IFB”)” – the method by which the government initiates the competitive bid process by inviting members of the public to submit bids.

“Item” – means any service, equipment, good or other tangible or intangible personal property, including insurance and high technology items. The term does not include professional services as defined by Chapter 2254.002, Government Code.

“Lowest and best bid” – means a bid or offer providing the best value considering associated direct and indirect costs, including transport, maintenance, reliability, life cycle, warranties, and customer service after a sale.

“MBE/WBE” - means minority business enterprise/women business enterprise.

“MBO” - means minority business office.

“Normal purchasing practice” – means:

- (A) An accepted custom, practice, or standard for government procurement in the state; or
- (B) A practice recognized by a national purchasing association regarding the purchase of a particular good or service.

“Payment Bond” – a bond issued by a surety to guarantee the payment by the general contractor or subcontractors, up to the amount of the bond.

“Performance Bond” – a bond issued by a surety to guarantee the performance by a contractor of its obligations under the contract, up to the amount of the bond.

“Planning services” - means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

“Purchase” – means any kind of acquisition, including by a lease or revenue contract.

“Request for Proposals (“RFP”)” – the procedure by which governmental entities initiate the Competitive Sealed Proposal process by inviting members of the public to submit proposals.

“Request for Qualifications (“RFQ”)” – the process used by many governmental entities to select providers of professional services for a specific task or project, by inviting members of those professions to submit their qualifications to perform the work.

“Reverse Auction Procedure” – a competitive purchasing procedure described in Chapter 2155.062(d) of the TGC, where the government publishes a description of goods and services needed and uses an auction format to get bids from suppliers over the internet.

“Separate purchases” - means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

“Sequential purchases” - means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

“Time warrant” - includes any warrant issued by a county that is not payable out of current funds.

“Local Public Official” - means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other governmental entity who exercises responsibilities beyond those that are advisory in nature.

“Business Entity” - means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

SECTION 5

PROCUREMENT OF GOODS AND SERVICES

A. General Purchasing Requirements

As used in this chapter, the term “Goods and Services” means good and services that are not purchased as a part of a construction project, and services that are not Professional Services exempted from competitive procurement requirements.

The County has different procurement methods for purchasing goods and services depending on whether they have to be purchased using a competitive procurement method, or whether they are exempt from competitive procurement requirements.

If items are required to be purchased using a competitive procurement process, then the competitive bid or competitive sealed proposal methods described in Sections 10 must be followed.

If items can be purchased without using a competitive procurement, the procedures set out in Section 8 must be followed.

The following information can be used to determine when goods and services must be purchased using a competitive procurement method.

B. Requirements Using the Competitive Procurement Method

1. Before the County may purchase one or more items under a contract that will require the expenditure of over \$50,000, the County must use a competitive procurement method allowed by law, unless the purchase is exempted from the competitive procurement requirement.
2. The following competitive procurement methods are permitted by statute for the purchase of General Goods and Services:
 - a. Competitive Sealed Bids;

- b. Competitive Sealed Proposals for the items described in Section 10 below:
 - c. Reverse Auction Method as described in Chapter §2155.062(d) of the Government Code.
3. The Competitive Sealed Bid method will be used for purchases, except for insurance, High Technology Items and other items described in Section 8 below or when directed by the County Purchasing Agent. The procedures for conducting a purchase of goods and services by competitive sealed bids is described in Section 8.
4. The Competitive Sealed Proposal method may be used for the purchase of:
- a. Insurance;
 - b. High technology items;
 - c. Landscape maintenance;
 - d. travel management;
 - e. recycling; and
 - f. any other item which the County Purchasing Agent determines to be purchased using this method, with the consent of the commissioners court

The procedure for conducting a purchase by Competitive Sealed Proposal is described in Section 11.

5. In addition to purchases described in Section 10, if the County Purchasing Agent determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, and the Commissioners Court makes the same finding, then the County may use the multistep competitive proposal process.
6. Items funded by Certificates of Obligations, even those described in Section 9 above, must be purchased through the competitive bid process provided in the Certificate of Obligation Act. The procedure for conducting a purchase under the Certificate of Obligation Act is described in Section 9(b).

C. Purchases that are Exempt from Competitive Procurement Requirements

1. The purchase of one or more items under a contract that will require the expenditure of \$50,000 or less does not require the use of a competitive procurement method.
2. If the County has attempted to purchase goods and services using a competitive procurement method, and has not received any responsive bids or proposals, the County can then purchase the items without any need to go through a competitive procurement process.
3. Purchases over \$50,000 that are exempted from competitive procurement requirements under (a) Chapter §262 of the Texas Local Government Code or under (b) the Certificate of Obligation Act (Chapter §271, Subch. C) for items purchased with funds from Certificates of Obligation.

4. The purchase of one or more items under a contract that will require the expenditure of more than \$50,000 does not require a competitive procurement method to be used if (1) the purchase is for one of the purposes described in a. through j. below, and (2) the Commissioners Court has granted the exemption from the competitive procurement requirement by order:
 - a. a procurement made because of a public calamity if it is necessary to make the purchase promptly requires the immediate appropriation of money to relieve the necessity of the citizens or preserve the property of the county;
 - b. a procurement necessary to preserve or protect the public health or safety of the county's residents;
 - c. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
 - d. a procurement for personal or professional services;
 - e. any individual work that is performed and paid for by the day as the work progresses, provided that no individual is compensated under this provision for more than 20 working days in any three-month period;
 - f. a purchase of land or right-of-way;
 - g. an item that can be obtained from only one source* (but see below), including:
 - i. items for which competition is precluded because of patents, copyrights, secret processes, or natural monopolies
 - ii. films, manuscripts, or books;
 - iii. electric power, gas, water, and other utility services;
 - iv. captive replacement parts or components for equipment;
 - v. an item of food** (but see below); and
 - vi. personal property sold.
 - h. at an auction by a state licensed auctioneer;
 - i. at a going out of business sale held in compliance with Ch. 17, Subch. F of the Texas Bus and Commerce Code; or
 - ii. a political subdivision of Texas, a Texas State agency, or an entity of the federal government.
 - iii. any work performed under a contract for community and economic development made by a county under Chapter §381.004; or
 - i. vehicle and equipment repairs
 - j. a renewal or extension of a lease or an equipment maintenance agreement if the commissioners court, by order grants the exemption, and:
 - i. the lease or agreement has gone through the competitive bidding procedure within the preceding year;
 - ii. the renewal or extension does not exceed one year; and
 - iii. the renewal or extension is the first renewal or extension of the lease or agreement.

Note:

* If the sole source exemption is used (g. above), then the county official who makes purchases for the county must provide the commissioners court with a signed statement that the purchase is available from only one source, and the commissioners court must enter in its minutes a statement to that effect.

** The exemption for food (g (v) above) applies only to the sealed competitive bidding requirements on food purchases. Counties must solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the Commissioners Court. Counties must 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. The purchasing officer taking telephone or written bids 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.

D. Exemptions under Ch. §271 Certificates of Obligation Act

If goods and services in an amount that exceeds \$50,000 are going to be purchased using funds from Certificates of Obligation, then the competitive bid requirements set out in the Certificate of Obligations Act must be followed, unless an exemption set out in the Certificate of Obligations Act applies. The exemptions are similar, but not identical, to those set out in Chapter §262, and listed above in C(3). However, the Certificate of Obligation Act also has an exemption for a contract which was exempted by the Commissioners Court under the provisions of chapter §262.

E. Separate, Sequential and Component Purchases Prohibited

In determining whether the contract amount exceeds \$50,000, and must be procured through a competitive process, certain purchases must be added together to determine the amount of purchase. The County is prohibited from making separate, sequential or component purchases for the purpose of avoiding the competitive procurement requirement. However, the separate purchase of office supplies by an individual department are not considered to be part of a single purchase and single contract by the County, if made without a specific intent to avoid the competitive procurement requirements.

SECTION 6 **PROCEDURES FOR SUBMITTING A PURCHASE REQUEST**

A. The Purchasing Process

This Chapter of the Manual outlines the procedure for submitting a purchase request for General Goods or Services to the Purchasing Department and the process to be followed by the Purchasing Department in procuring the requested goods or services. The Purchasing Department and the requesting department each have responsibilities in the procurement process in order to achieve a successful purchase transaction.

- (1) The Purchasing Department's responsibilities are to:
 - (a) Obtain information about the needs of County departments.
 - (b) Secure the product at the least cost to the County, and in accordance with the policies and procedures set out in this Manual.
 - (c) Know the sources for and availability of needed products.
 - (d) Aid and cooperate with all departments of the County to meet their equipment and supply needs.

- (2) User Department's responsibilities are to:
 - (a) Make requests early enough to allow sufficient time for the purchase to be made and the goods or services to be delivered;
 - (b) Supply detailed specifications of items requested;
 - (c) Inform the Purchasing Department of all unusual demands or urgent delivery deadlines;
 - (d) Take no actions that might be viewed as obligating or committing the County, except in an emergency; and

 - (e) Make no commitments regarding goods or services in the name of the County. Such commitments will be VOID because they have not been made by the County Purchasing Agent, or by the Commissioners' Court, in instances where competitive procurement is required.

B. Submitting a Requisition to the Purchasing Department

Each Department or Official requesting the purchase of goods or services must submit an electronic requisition through the Oracle System for each requested purchase.

The purpose of a requisition is to:

1. inform the Purchasing Department of the needs of the user department or official;
2. identify correctly and clearly the goods or services requested and the source of funds which will be used for the purchase;
3. provide a record of the requested purchase and verification that the request was submitted by a person authorized to request purchases.

Each elected Official and Department head must provide the Purchasing Department with a list of employees who are authorized to complete and submit requisitions and an example of the signature of the employee for verification purposes. Only the head of a department may sign and submit an Emergency Requisition Form.

C. Preparation and Approval of a Requisition

A separate requisition form must be used for each class of items. The requisition must be signed by an employee who has been authorized by a Department head or elected official to submit requisitions.

The requisition may be submitted by inter-office mail, fax, hand delivery, or a scanned copy of the signed requisition may be emailed to the purchasing Department.

A requisition which has not been completely filled out, or which has not been signed by an employee approved to submit requisitions will be returned to the submitting Department or elected Official with a concise description of the reason for the return.

D. Budgeted Funds

The requisition must state the source of budgeted funds that will be used for the purchase. If funds for the purchase have not been included in the budget of the user department or official, then the department or official must obtain a budget amendment to include the required funds as described in E.

E. Unbudgeted Capital Purchases

If the needed capital item was not included as part of the County Budget, the following procedures should be followed in order to obtain budgetary authorization:

- (1) The user department must fill out a requisition form the user department shall include in the memo a cost estimate or quote justifying the need and a statement of whether there are available departmental funds that may be used for this purchase.
- (2) The user department must submit a description of the expenditure along with the cost to the County Auditor.
- (3) The Auditor will then present the request to the Court. The Commissioners' Court will approve or decline the request. If approved, normal purchasing procedures apply.

After the Commissioners' Court has granted budget authorization, the Purchasing Department will proceed with the purchase process.

F. Issuance of a Purchase Order

When the Purchasing Department receives a completed requisition signed by an authorized employee, and for which funds have been budgeted, it will enter the requisition into the computer system for preparation of a purchase order on the Purchasing Department Purchase Order Form. A sample Purchase Order Form is shown in Appendix "G." If funds are unavailable, the Purchasing Department will not issue the purchase order to the user department. The user department must seek a budget amendment through the County Auditor' Office.

If the items requested are not available under existing contracts, then procurement must be made by the Purchasing Department through one of the authorized procurement methods described in Section 5.

G. Payment Only Purchase Orders – for items requiring payment prior to delivery, e.g., subscriptions or conference registration, Purchasing may note receipt on the purchase order. The user department shall make note of the receipt number and forward the purchase order with necessary documentation to the Accounts Payable Chapter of the Auditor's Office for payment.

H. Purchase Order: For purchases requiring delivery of items, Purchasing will send the original copy of the purchase order to the vendor (if required) and distribute copies as follows:

- (a) a copy to Purchasing to be retained with original requisition.
- (b) a copy to be given to the Treasurer with invoice.

I. Existing Contracts and County-Provided Services

If there is an existing contract under which the required goods or services can be obtained, or if the County Purchasing Agent determines that goods can be transferred to the user department from another department that does not need or use the goods, the Purchasing Department will take the required action to gain the goods for the user department.

If a request is made for services that are provided through a County department, such as maintenance of equipment, the Purchasing Department will notify the user department and issue a purchase order for the services.

J. Purchases for which a Competitive Procurement is Not Required

If the Purchase Order cannot be filled under an existing County contract, and the purchase is exempt from a competitive procurement requirement, the open market purchasing procedures set out in Section 7 may be used.

K. Purchases Which Must Be Competitively Procured

Goods, Commodities, Construction, Technology, Services and Professional Services exceeding \$50,000 require competitive procurement.

L. Emergency Purchases

Emergency purchases are authorized in extremely limited circumstances: (a) in the event of public calamity for the benefit of the county citizens or to protect public property; (b) in order to protect the public health or safety of county residents; or (c) when made necessary by unforeseen damage to public property. Depending upon the time of the emergency and type of purchase necessary, one of the following procedures should be followed in accordance with County Administrative Code:

- (a) If an emergency situation arises in which materials or services must be purchased and obtained without administrative delay, emergency purchasing may be authorized.
- (b) The decision making process will be conducted on an individual case basis by the purchasing agent using an emergency purchase request form.
- (c) Emergency purchases of \$10,000.00 must have the Commissioners Court authorization unless such purchases are for materials/services that have been competitively bid under a sealed bid or annual contract.

Procedures:

- (a) The department head experiencing the emergency should contact a vendor who can furnish the supplies/services immediately and obtain the price.
- (b) The department head must then call the purchasing agent for approval, specifying the details of the situation, the vendor contacted, and the cost of the materials or services.
- (c) The department head must submit a requisition to the purchasing department before a purchase order can be issued.
- (d) If the emergency purchase is approved, the purchasing agent will quickly survey the other known sources for availability and prices. If the suggested vendor is found to be the best, all factors considered, the purchasing agent or representative will contact the vendor, provide him with a purchase order number, confirm the approval of the purchase, and prepare to issue a confirming purchase order. The form for issuing emergency confirming purchase orders must be completed by the buyer.
- (e) The department requesting the emergency supplies will pick up the merchandise and obtain an invoice, unless the supplies are delivered in which case a copy of the packing slip should be retained.
- (f) The receiving department must submit an RMR form and the invoice or packing slip to the auditor's office by the next working day.

M. Acquisition under a Blanket Purchase Order (Pick-up PO)

A Blanket Purchase Order authorizes a County department to obtain up to a specified amount of material (services or supplies) on a continuing basis from a vendor. Such Purchase Orders are authorized only by the Purchasing Department in appropriate circumstances, e.g., obtaining parts for vehicle maintenance as needed. Any department foreseeing a definite and regular need for items that are not available routinely should discuss with the Purchasing Department whether to obtain a Blanket Purchase Order for such items. Blanket Purchase Orders anticipated to exceed \$50,000 during the course of a year must be competitively bid. Blanket Purchase Orders should not exceed budgeted funds for such purchases by the user department.

When goods or services are provided under a Blanket Purchase Order, the procedures for receipt or delivery of the items are as follows:

- (a) The user department will pick-up or receive items during the course of an agreed on time period.
- (b) The user department will retain receipts and/or delivery tickets for all items picked up or delivered during the month.
- (c) At the end of each month, the user department will attach receipts/delivery tickets to the department's copy of the invoice and shall be delivered to the Treasurer for pay.

N. Inspecting, Testing and Receiving Goods

It is the responsibility of the user department to see that all purchased items conform to the quantity, quality and specifications of the order.

After delivery of the merchandise to the user department, the department must determine whether the goods are acceptable. If they are not, the user department must immediately notify the Purchasing Department of the reasons why the merchandise is not acceptable. The Purchasing Department will require vendor to replace, cancel the order, or take other appropriate action to resolve the problem.

O. Non-Compliance Purchase Orders

Non-Compliance Forms are completed by County Departments and submitted to the Purchasing Department for acquisitions made outside of the procurement process. Offices and Departments that utilize the Non-Compliance Form will be required to prepare and submit a Commissioners Court agenda item to brief the Court of the action and request the authority for the Auditor's Office/Treasurer to issue payment. The Purchasing Department will "not" issue a Purchase Order on a Non-Compliance Form as it does not adhere to the procurement process/statutory requirements.

P. Pick-Up Purchase Orders

Pick-up Purchase Orders also known as Blanked Purchase Orders, is a funded Purchase Order to a vendor on contract or on a cooperative agreement. The Pick-up Purchase Order will reflect a specific period of time, list of commodities and/or services, budget/funding information, department, location. The Contract Number or Cooperative Contract Number is required to be referenced on the Pick-up Purchase Order. The maximum threshold allowed for a Pick-up Purchase Order is five-hundred dollars (\$500.00).

Q. Use of County Property

Property acquired by the Purchasing Department is County Property to be used solely for County business. County funds cannot be used to purchase property for personal use, and County property cannot be used for personal purposes. Elected Officials and Department Heads are responsible for the proper accounting for, maintenance of and use of County property.

Provisions regarding the use of County Property are set out in Section 18.

**SECTION 7
PROCEDURES FOR PURCHASE OF GOODS AND SERVICES
WHEN NO COMPETITIVE PROCESS IS REQUIRED**

Open Market Purchases

Policy For open market purchases of goods and services totaling \$50,000 or less, or for purchases over \$50,000 which are exempt from competitive procurement, the Purchasing Agent is authorized to select the exact goods or services to meet the requests

of user departments. The Purchasing Agent is authorized to select the vendor and to perform all actions necessary to conclude a contract for the purchase of the goods and services, including execution of the contract without specific approval of the Commissioners Court.

These procedures will also be used for the purchase of items when the County has gone through a competitive bid process but has not received a responsive bid.

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

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

Procedures Documentation: The following procedures will be followed for documenting competition for purchases less than \$50,000.00:

- (1) MBE/WBE and HUB bidding requirements. Refer to minority business policy, Chapter 16, for specific requirements.
- (2) \$0.01 -- \$3,000. This procurement threshold is considered a simplified requirement. Offices and Departments may utilize the Purchasing Department for vendor sourcing. M/WBE and/or HUB participation is highly encouraged during vendor sourcing.
- (3) \$3,001 - \$49,999. The Purchasing Department will advertise a Request for Quote through BidNet and coordinating with the M/WBE Coordinator for M/WBE and/or HUB vendors for a maximum outreach efforts.
- (4) \$50,000 and above. Procurement requires exceeding \$50,000 requires a formal competitive solicitation. The formal solicitation will be advertised electronically through the BidNet System. The Purchasing Department will coordinate with the M/WBE Coordinator in order to obtain a list of certified M/WBE and/or HUBs for maximum competition and outreach.
- (5) 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 quote.

Commodity

Purchases

Limits

Important: If cumulative purchases from a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required and an annual term contract is established. Cumulative purchases include countywide purchases, and are not limited to department requirements.

Violations and

Penalties

Intentionally separating purchases or invoices to avoid the competitive procurement requirement is a violation of law, and a Class B misdemeanor for purchases over \$50,000.

Open Market Requisition Checklist

Step	Reference Source:
Identify the commodity and sub-commodity code for the item(s) to determine the accounting line item(s) to be used and ensure that there are sufficient budgeted funds available. Perform budget transfer is necessary, before submitting requisition.	Oracle system (purchasing module for commodity/sub-commodity and financial module for account line item balances)
Find the desired item(s) and obtain the following information: <ul style="list-style-type: none">• Manufacturer Name (e.g. Dell)• Model Number (e.g. Pentium Series II, model number 135867)• Unit of measure (e.g. each)• Unit price, quantity, and total price• Item description (complete description with as much detail as possible)	Vendor catalog, Internet research Helpful hint: Copy the model description information from the source and either type it in the requisition or forward via interoffice mail or email to purchasing. Also, identify where you got the information (e.g. Office Depot catalog p. 22 or online at 222.officedepot.com, item xxx)
Obtain the full description for the item(s) being purchased. Example of full description (file cabinet): File Cabinet, Vertical, 2 Drawer, Letter Size Color: Steel Gray Shipping Weight: 320 lb. MFG: FireKing P/N FK25 (seen online at Office Depot catalog)	Vendor catalog, Internet research
Check the vendor name to see if the vendor exists in the Oracle system and verify the vendor number. If the vendor does not exist, obtain the following to enter into requisition comments: <ul style="list-style-type: none">• Vendor name• Vendor address• Vendor telephone number• Vendor point of contact (who you talked with to get product information)• HUB status (ethnicity, gender, expiration	Oracle Purchasing module (requisition function)

date)	
Identify shipping and delivery information including: <ul style="list-style-type: none"> • Date required • Shipping (determine if it is included in price of is a separate item) • Department point of contact to whom item will be delivered • The “Ship to” location • Any specific delivery instructions (location, time of day, etc.) • Any special options that are available, but not part of description (color, fabric, etc.) 	Oracle Purchasing module (requisition function)

Development of Specifications of Open Market Purchases

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

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

- promotes competitive procurement; and
- provides a means to make an equitable award to the lowest and best bid from a responsible bidder.

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

To gather information to facilitate writing specifications, a Request for Information (RFI) may be issued. Responses to an RFI allow the business community to have input into the solicitation document based on the current industry practices and market factors, and may provide information to prepare a complete solicitation.

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

- Texas Specification Library located at the Texas Comptroller of Public Accounts website:
<http://comptroller.texas.gov/procurement/pub/specifications-library/>
- General Services Administration, Federal Supply Service – Specifications Section found at www.gsa.gov
- Texas Department of Transportation Standard Specification Index located at:
<http://www.dot.state.tx.us/apps-cg/purchasing/tssi.htm>
- National Institute of Governmental Purchasing. Contract Purchasing for assistance because this is available to members only.

The user department, occupant department, or an outside agency may propose specifications. To ensure compliance with legal purchasing requirements, the Purchasing Office has final acceptance of the specifications, except those for construction projects. This ensures proper quality control and avoids the proliferation of conflicting specifications in the different County departments. The Purchasing Office may submit any purchases that were not approved in the budget process to Commissioners Court before specifications are prepared and advertised.

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

Characteristics An effective specification has the following characteristics:

Simple: Avoids unnecessary detail, but is complete enough to ensure that purchased goods and services satisfy their intended purpose.

- Clear:**
- Uses terminology that is understandable to the user department and vendors.
 - Eliminates confusion by using correct spelling and appropriate sentence structures.
 - Avoids the use of jargon and “legalese.”

Accurate: Uses units of measure that are compatible with industry standards, identifies all quantities and describes packing requirements.

- Competitive:**
- Identifies at least two commercially available brands, makes, or models (whenever possible) that satisfy the intended purpose.
 - Avoids unneeded “extras” that could reduce or eliminate competition and increase costs.

- Flexible:**
- Avoids situations that prevent the acceptance of a response that could offer greater performance for fewer dollars.
 - Uses approximate values that are within a 10% range for the dimensions, weight, speed, etc. (whenever possible) if these values can satisfy the intended purpose.

Types

The Purchasing Office uses a number of specification types:

- **Design** – Details description of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other information needed to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items and many services.
- **Performance** – Details required performance parameters such as required power, strength of material, test methods, standards of acceptability, and recommended practices. Performance specifications are usually used for capital equipment purchases.
- **Brand Name or Equal** – Lists goods or services by brand-name, model, and other identifying specifics, except that products with performance equivalent to the characteristics of the named brand are specified as acceptable. Other manufacturers may provide a nearly identical product under another brand name. **The Purchasing Office uses this method only if there is sound justification. The burden on justification rests with the user department.**
- **Industry Standard** – States an industry standard that is identical, regardless of manufacturer that results in acquisition of goods or uniform quality. The UL standard for electrical products is an example of an industry standard.

SECTION 8

PROCEDURES FOR PURCHASE OF GOODS AND SERVICES BY COMPETITIVE SEALED BID UNDER CHAPTER 262 OF THE TEXAS LOCAL GOVERNMENT CODE

The provisions of this Chapter describe the competitor bid procedure for goods and services set out in Chapter §262 of the Texas Local Government Code. The competitive bid procedure required under the Certificate of Obligation Act is described in Section 9(b).

A. Preparing Specifications and Bid Instructions

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

The Purchasing Department will prepare specifications for the goods or services to be purchased with assistance, to the extent necessary, from the user department, and any consultant employed by the County to provide assistance.

No specifications are to be written with the intent to exclude a possible bidder. Competitive bidding can be let on either a lump sum or a unit price basis. If unit price bids are solicited, the needed quantities of each item should be estimated in the request based on the best available information. The successful bidder's compensation, however, will be based on the actual quantities supplied, furnished or constructed.

The Purchasing Department will prepare the Bid Instructions with the Insurance Requirements and the Contract Form to be used. Sample Bid Instructions and Contract Form are set out in Appendix “E.”

All Technology Requirements shall be coordinated with the Information Technology (IT) Department to ensure system/platform compatibility and continuity.

B. Pre-Bid Conference: Mandatory or Non-Mandatory

The Purchasing Department will determine with the user department whether to have a non-mandatory pre-bid conference. The Commissioners Court may require a mandatory pre-bid conference so that only attendees may bid on the contract. Information on the pre-bid conference should be included in the Notice. The Purchasing Department manages the pre-bid conference and requests the user department to be available to answer questions.

C. Bid Bonds

A vendor awarded a contract may be required to post bond. If it is required, the Purchaser will include the requirement in the bid advertisement. A bid bond is required for all contracts in excess of \$100,000 (LGC §262.032). The bid bond amount that will be required shall not be less than 5% of the total contract price and must be executed with a surety authorized to do business in the state of Texas.

D. Notice of Invitation for Bids

The Purchasing Department will provide notice of the Request for Bids at least once a week for two consecutive weeks in a newspaper of general circulation in the County. The date of the first publication must be at least 14 days before the date of the bid opening.

The notice published in the newspaper must include the information contained on the Sample Form in Appendix “F.”

E. Receiving Bids.

Bids shall be submitted at the location specified in the Notice. The County will receive bids in hard copy format, and may, if authorized by the County Purchasing Agent also receive bids in electronic form in accordance with policies and procedures established by the County Purchasing Agent. The County must accept any bids in hard copy format even if an electronic bid process is used.

The County will receive bids in a fair and confidential manner. The parties reviewing and evaluating bids are required to maintain the information contained in the bids confidential.

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

- The Purchasing Agent/Director receives all responses as specified by the solicitation document.

- **Solicitations are not accepted after the opening time on the day of responses opening.** All responses offered after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent/Director notifying the vendor that the submitted responses arrived after the due date and time.
- The Purchasing Department records the name of the vendor's representatives submitting the solicitation, and the time and date the response was submitted.
- After a response is received, the Purchasing Department provides a secure place to hold it until the opening date. The responses are only accepted if sealed. Responses remain sealed until the Purchasing Department opens them in a public forum at the advertised date and time.
- On occasion, responses that are received in the mail or by other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the response (especially the price for a bid) were not reviewed and the response is resealed by that employee of the Purchasing Department, and the incident documented.

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

F. Bid Opening

- a. The County Purchasing Agent will open the bids that have been timely received on the date and time and at the location specified in the Notice, and read aloud the names of the bidders and the amount of the bids. The Commissioners Court can extend the date for bid opening if it determines that the extension is in the best interest of the county. The Commissioners Court may adopt an order that delegates the authority to make extensions to the County Purchasing Agent. All bids, including those received before an extension is made, must be opened at the same time. Tabulations are provided to the public after an award has been made.
- b. Opened bids shall be kept on file and made available for inspection by anyone desiring to see them until the first anniversary date of the bid opening.
- c. Opened bids are subject to disclosure under the Texas Public Information Act once an award has been made. However, trade secrets and information made confidential under the Texas Public Information Act are not subject to disclosure.

G. Award of Contract

- a. The County Purchasing Agent with the assistance of the user department will review the bids to determine the bidder who they will recommend to the Commissioners Court as the bidder providing the lowest responsible bid. The Purchasing Department will obtain an agenda setting, notify the user department and forward the bid recommendation, along with a bid summary, to the Commissioners Court. The user department should attend the session at which the bid will be awarded.

- b. The court must award the contract to the responsible bidder who submits the lowest and best bid or reject all bids. The lowest and best bid means a bid providing the best value considering associated direct and indirect costs including transport, maintenance, reliability, life cycle, warranties and customer service after a sale. In addition:
 - i. In determining the lowest and best bid for a contract for the purchase of earth-moving, material-handling, road maintenance, or construction equipment, the Commissioners Court may consider the information submitted on the cost of repair, maintenance and repurchase;
 - ii. In determining the lowest and best bid for a contract for the purchase of road construction materials, the Commissioners Court may consider the pickup and delivery locations of the bidders and the cost to the county of delivering or hauling the material to be purchased.
 - iii. County may consider Health insurance provided by Bidder, safety record of builder §262.0275 and indebtedness to the county §262.0216.
- c. A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given (i) notice of the proposed award and (ii) an opportunity to appear before the Commissioners Court and present previously unconsidered evidence concerning the lower bid as best, which may include evidence of the bidder's responsibility.
- d. Before a contract is awarded, a bidder must give written notice to the County Purchasing Agent that the bidder intends to protest an award of the contract to a bidder that is not the lowest bidder. This requirement does not limit the ability of a bidder to speak at a public meeting of the Commissioners Court under the rules established by the court.
- e. The Commissioners Court may award contracts for the purchase of road construction material to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material.
 - a. If after the award the successful bidder fails to qualify for bonds, or is otherwise unable to meet the requirements of the award, the Commissioners Court may award the contract to the next bidder in order of ranking as lowest and best bid.

H. No bids received

If, despite the County's good faith efforts to obtain competitive bids, no responsive bid is received, the County may purchase goods and services using the open market method described in Section 7.

I. Identical bids received

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

J. Contract

When the county receives only one bid, the bid may be accepted if the Commissioners' Court determines the price is fair and reasonable. If the price is not fair and reasonable, the bid may be rejected. If the bid(s) is rejected the Court may instruct the purchaser to post for a re-bid.

If two or more responsible bidders submit identical bids, the bid award will be made by drawing lots or as directed by the County Judge.

K. Performance Bonds

Within 30 days after the acceptance of a bid or proposal and the signing of a contract or issuance of a purchase order, but before work has begun, the selected vendor shall furnish a performance bond if required by the county. The performance bond shall be for the full amount of the contract if the contract exceeds \$ 50,000. If the contract does not exceed \$50,000 the county may provide in the bid or proposal request that no funds will be paid to the contractor until completion and acceptance of the project.

L. Acquisition of Item After Bid Award

Following award of the bid contract by the Commissioners' Court the successful vendor will be notified by Purchasing Department through the issuance of a Notice of Contract Award. The Notice of Contract Award and the original contract form the complete contract. The Purchasing Department maintains a copy of the original contract. The other originals are furnished to the vendor and the County Clerk. Copies of the contract are provided to the user department, the Auditor's Office and the County Attorney.

M. Modification after Award

After the award of the contract, but before the contract is made, the Purchasing Agent may negotiate a modification of the contract if the modification is in the best interests of the County and does not substantially change the scope of the or cause the contract amount to exceed the next lowest bid. Commissioners Court approval is required for the modification.

N. Changes in Plans and Specifications

If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the Commissioners Court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

O. Change Order

A change order may be required when it becomes necessary to make changes after performance of the contract has commenced. The Commissioner's Court or their designee is authorized to approve increase or decreases to the original contract price provided that the original contract price may not be increased by more than 25%. All change orders requiring increases or decreases to the contract price involving more than \$50,000 must be approved by the Commissioners' Court. All decreases of 18% or more of the original contract price

must have the written consent of the vendor or contractor. Any major alterations of the plans or specifications must be submitted to the Commissioners' Court for approval.

In determining the 25% and 18% caps, the amount of all change orders must be added together.

All Change Orders will be prepared by the Purchasing Department in coordination with "End User" and submitted to Commissioners Court for approval.

P. Renewals / Amendments

All contract renewals and/or amendments will be submitted to Commissioners Court through the Purchasing Department. The Purchasing Department will verify contractual requirements to determine renewal is in accordance with the terms, conditions, and pricing. Additionally, Purchasing will verify if there are remaining option years to renew.

Q. Communications with Prospective Bidders Prohibited

During the bid process, beginning with the issuance of the Invitation for Bids, prospective bidders or persons acting on their behalf are prohibited from contacting County staff or officials, except for questions regarding the IFB that are directed to the County Purchasing Agent or other contact person designated in the IFB. Violation of this prohibition may result in the bid of the violating entity being rejected.

R. Checklist for Purchasing Goods and Services by Competitive Bid Under Chapter §262

The checklist for procuring goods and services by a competitive process is described in Section 8.

SECTION 9
PROCEDURES FOR PURCHASE OF GOODS AND SERVICES BY COMPETITIVE
SEALED BID UNDER THE CERTIFICATE OF OBLIGATION ACT

In accordance with Texas Local Government Code §262.023, Competitive Requirements for Certain Purchases involve: (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 2269, Government Code.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431, Government Code, or time warrants. Contracts for which payments will be made through

certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(b-1) A county that complies with a method described by Chapter 2269, Government Code, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

- (1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or
- (2) \$10 million.

(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.

SECTION 10
PROCEDURES FOR PURCHASE OF GOODS AND SERVICES BY COMPETITIVE
SEALED PROPOSALS

1) In accordance with Texas Local Government Code §262.0225, Additional Competitive Procedures include:

- (a) In the procedure for competitive bidding under this subchapter, the commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.
- (b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.
- (c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A county shall accept any bids or proposals submitted in hard-copy format.

2) In accordance with Texas Local Government Code §262.023, Competitive Requirements for Certain Purchases include:

- (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 Subchapter H, Chapter 271.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431, Government Code, or time warrants. Contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(b-1) A county that complies with a method described by Subchapter H, Chapter 271, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

- (1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or
- (2) \$10 million.

(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.

3) In accordance with Texas Local Government Code §262.0256, Pre-Bid Conference for Certain Counties or a District Governed by Those Counties include:

(a) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

(c) After a conference is conducted under Subsection (b), any additional required notice for the proposed purchase may be sent by certified mail, return receipt requested, only to prospective bidders who attended the conference. Notice under this subsection is not subject to the requirements of Section 262.025.

4) In accordance with Texas Local Government Code §262.0256, Pre-Bid Conference includes:

The commissioners court of a county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

5) In accordance with Texas Local Government Code §262.026, Opening of Bids Include:

- (a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended if the Commissioners Court determines that the extension is in the best interest of the County. All bids, including those received before an extension is made, must be opened at the same time. The Commissioners Court may adopt an order that delegates the authority to make extensions under this subsection to the county official who makes purchases for the county.
- (b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them.

6) In accordance with Texas Local Government Code §262.027, Awarding of a Contract Includes:

- (a) The officer in charge of opening the bids shall present them to the Commissioners Court in session. Except as provided by Subsection (e), the court shall:
 - (1) award the contract to the responsible bidder who submits the lowest and best bid;
 - or
 - (2) reject all bids and publish a new notice.
- (b) If two responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge.
- (c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence concerning the lower bidder's responsibility.
- (d) In determining the lowest and best bid for a contract for the purchase of earth-moving, material-handling, road maintenance, or construction equipment, the Commissioners Court may consider the information submitted under Section 262.0255.
- (e) In determining the lowest and best bid for a contract for the purchase of road construction material, the Commissioners Court may consider the pickup and delivery locations of the bidders and the cost to the county of delivering or hauling the material to be purchased. The Commissioners Court may award contracts for the purchase of road construction material to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material.

- (f) Notwithstanding any other requirement of this section, the Commissioners Court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.

Additional steps in the Request for Proposal (RFP) Process Include:

Vendor Lists:

- Check for HUB/MWBE/DBE participation
- Check for existing contractor and past bidders
- Ensure your name and phone number are located on bid for vendors
- Check for additional advertising requirements

Processing:

- Establish roles and responsibilities regarding vendor and/or acquisition team
- Develop acquisition team and coordinate specifications/requirements with Customer & IT Dept.
- ALL Technology Requirements/RFPs must be coordinated with the IT Department
- Staff are “required” to attend pre-proposal meeting(s) and take detailed notes for addendum(s)
- Coordinate any vendor questions and any addendum(s) with contract acquisition team
- Issue addendum with questions and answers, and any material changes to RFP
- Attend RFP Closing
- Coordinate any acquisition team requests for evaluation information (from vendors)
- Coordinate release of information outside of acquisition team with legal and Purchasing Officer
- Respond to requests for information with assistance of management
- Copies of proposals to acquisition team with written instructions or roles & responsibilities
- Provide evaluation team with electronic evaluation sheet with formulas incorporated
- Identify any exceptions to the RFP terms or specifications with acquisition team
- Establish regular evaluation meetings with acquisition team
- Review and evaluate each evaluation team scoring and obtain cumulative score
- Identify highest ranking vendor
- Determine how and who will develop contract language and terms

Specifications:

- Develop RFP template and terms
- Identify requirements or problems
- Develop evaluation criteria with weighted points with acquisition team input
- Develop acceptable range from acquisition team input, i.e. scoring 70 or better
- Identify solicitation time frame to include dates and times for questions, RFP closing, etc.
- Establish yourself as the county contact for RFP questions
- Determine Insurance Requirements
- Determine Bond Requirements
- Determine period of contract
- Consider need for pricing re-determination with customer and length of contract

RFP Scoring:

- Score responses individually
- Provide electronic score sheet with formula to each scoring member
- Capture scores from each acquisition team member input
- Tabulate scores and determine which responses are within the acceptable range
- Hold presentations (as needed) with those scoring in the acceptable range
- Seek Best & Final Offers (as needed) from vendors in acceptable range and coordinate with acquisition team
- Score those from the acceptable range and after any best and final offers

Tabulations:

- Have written tabulation for receiving responses
- Formal tabs to include purchase items, quantities, unit prices, payment terms, brand and model
- No price space blank: use No Response, No Charge, Not Included, Not as Specified, Included
- Include quantities, description of item, and number each item as applicable
- Provide only evaluation and award information
- Number item and show “Deleted” when applicable
- Formal tabs to highlight awards
- Price totals are only for lump sum awards
- Include RFP opening date, RFP name, and RFP Number on the Formal Tabulation

Scoring Worksheet:

- Identify vendor by complete name, address, contact person and phone number
- Include evaluation criteria and maximum points allowed
- Identify vendor and associated scoring for each criteria
- Include total points for each vendor

Recommendations:

- Obtain department head or other official concurrence in writing
- Recommend negotiation or award as applicable
- Recommendation to include detail for any exceptions
- Notify recommended vendor to appear in Commissioners Court meeting with date and time

Agenda Item Captions:

- Explain need for action / recommending purchase, or authority to negotiate
- Explain what contract will provide, what you are buying
- Explain why items were deleted, not as specified, or other issues
- Detail time lines and action items
- Identify coordination with other department as applicable
- Identify funding by fund name and number
- Identify proper names and titles for individuals, vendors, and department(s) or office(s)
- Detail any period of contract, either delivery, completion, or time frame

Additional RFP Activities:

- Evaluation points scoring
- Regular meetings (weekly)
- Formulate team to include applicable departments and offices
- Scoring individually (collectively may be offered but not preferred)
- Request additional information through purchasing
- Scoring 70 or better (determine acceptable award criteria)
- Schedule presentations
- Develop Best and Final Offers
- Evaluation Best and Final Offers
- Re-score proposals with Best and Final Offers
- Coordinate questions from team to vendors and others
- Develop meeting schedule and agenda
- Develop minutes and sign-in sheet

Post Award:

- Staff are required to upload contract award information into procurement system
- Staff are required to monitor contract for renewals/close-out
- Staff shall coordinate with departments and offices on contract renewals and identify any scope of work or price changes

SECTION 11
ALTERNATIVE CONSTRUCTION DELIVERY METHODS FOR
PUBLIC WORKS PROJECTS

The County is authorized under Chapter 2269 of the Texas Government Code to use six (6) types of construction delivery methods for Public Works projects. These methods are:

- Competitive Sealed Bids;
- Competitive Sealed Proposals;
- Construction Manager Agent;
- Construction Manager at Risk;
- Design-Build;
- Job Order Contract.

All of these methods can be used for both architectural projects and civil works projects except Job Order Contract Method. It cannot be used for civil works projects such as roads, utilities and drainage systems. There are two (2) separate sets of statutes for Design-Build Projects: one sets out the requirements for architectural design-build projects, and the other sets out the requirements for civil works projects.

The Design-Build requirements for civil works projects are described in Chapter 12.

Section 1. General Procurement Matters

Each of the alternative construction delivery methods has its own procurement procedure prescribed by the applicable section of Chapter 2269, which are outlined below. Solicitation will be by request for bids, a request for proposals, or both as prescribed. Notice of the solicitation must be given in a newspaper of general circulation once each week for at least two (2) weeks prior to the deadline for submission of bids, qualifications or proposals.

There are some general procurement requirements which must be considered before beginning a solicitation.

- A. Selection of Delivery Method. If the County plans to use any method other than Competitive Sealed Bid, then sending out its notice for procurement, the Commissioners Court must make a finding that the contemplated method provides the “best value” to the entity for that project.
- B. Delegation of Authority. The Commissioners Court may delegate the authority to choose the delivery method or to conduct the evaluations. If authority to conduct the evaluations is delegated to a person or committee then the solicitation document(s), or rule adopted by the Commissioners Court must describe the limits of the delegation and the identity of the person or persons to whom the delegation has been made.
- C. Selection Criteria and Selection Method. Selection Criteria and Selection Method 2269 provides that selection criteria may be used in selecting a contractor, or construction manager agent. The solicitation documents will set out the criteria to be used, and assign a weight to each of the criteria. Selection criteria may include:
 - (1) the price;
 - (2) the offeror's experience and reputation;
 - (3) the quality of the offeror's goods or services;
 - (4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;
 - (5) the offeror's safety record;
 - (6) the offeror's proposed personnel;
 - (7) whether the offeror's financial capability is appropriate to the size and scope of the project; and
 - (8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

If the Competitive Sealed Bid process is used, these selection criteria can only be used to determine whether the contractor is a responsible bidder, because the award can only be made to the lowest responsible bidder.

If any other delivery method is used, the respondents will be graded based on the selection criteria set out in the solicitation, and the award will be made to the respondent who provides the “best value” to the County for the project. The award does not have to be made based on the lowest price. The Evaluation Committee will rank the respondents based on their scores on the selection criteria, and will begin negotiations with the highest ranked respondent. If successful negotiations cannot be reached, the County has the right to cease negotiations and begin negotiations with the next highest ranked respondent, with Commissioners Court authorization.

Section 2. Delivery Methods and Procurement Requirements

The following is a brief description of the delivery methods and the procurement requirements for each.

A. Competitive Bid (Design/Bid/Build) [Section 2269]. This method is similar to the traditional method of competitive bid.

- The County selects an Architect or Engineer (“A/E”), as appropriate for the project to design and develop the plans and specifications (“Plans”).
- The County issues a Request for Bids in which the County provides the Plans, the County’s estimated construction budget, the project scope and schedule, and other relevant information. The County may use selection criteria to determine whether the bidder is responsible.
- Bids must be received and publicly opened by the County and the name of the bidders and their bid pricing are read aloud.
- The County selects the bidder who is the lowest responsible bidder.
- Not later than the 7th day after the date the contract is awarded, the County will document the basis of its selection and the evaluations will be public.

B. Competitive Sealed Proposals. This method is similar to Competitive Bid method except that proposals are used instead of bids, and the award can be made based on criteria other than pricing, and the County may negotiate a proposal with the highest ranked proposer.

- The County selects the A/E to design the project and develop the Plans.
- The Commissioners Court determines that this method provides the best value for the construction of the project.
- The County requests sealed proposals based on the Plans, and the solicitation documents set out the Selection Criteria established by the County, the Estimated Construction Budget, Project Scope, Project Schedule and other relevant factors.

- The proposals are publicly opened by the County and the names of the proposers and the dollar amount of their proposals are read aloud.
- Not later than forty-five (45) days after the date on which the proposals are opened, the County evaluates and ranks each proposal and makes its selection of “best value” based on the selection criteria and weighted ranking.
- The County begins negotiation with the first ranked proposer, and if negotiations are not successful, terminates negotiations with that proposer and moves to the next-ranked proposer until a contract is selected or all proposers are rejected.

C. Construction Manager at Risk In this method, the Construction Manager provides pre-construction services during the design of the project to help prevent constructability problems and to reduce costs, and serves as the general contractor during construction. The contract will usually provide for a Guaranteed Maximum Price (“GMP”) for construction.

- The County selects the A/E to design the project and prepare the Plans.
- At the same time, or at any time thereafter, the County selects the Construction Manager at Risk (“CMR”) through either a one-step or two-step process. In the one-step process, the County uses an Request for Proposal (“RFP”); in the two-step process, the County first sends out a Request for Qualifications (“RFQ”), then selects candidates to receive the RFP.
- Not later than the 45th day after the final proposals are opened, the County will evaluate and rank each contractor/firm and make its selection of “best value” based on the selection criteria and ranking.
- The County begins negotiation with the highest ranked contractor/firm, and if negotiations are not successful, moves to the next highest ranked until a selection is made or all proposers have been rejected.

D. Construction Manager as Agent. This is a method where the Construction Manager generally serves as a project manager and does not have any responsibility for construction. In fact, the Construction Manager Agent is prohibited from performing any of the construction work. If the County is acting as its own General Contractor, and enters into contracts with trade contractors, the CMA will administer the contracts and coordinate performance.

- County selects A/E to design project and prepare Plans and contractor to perform construction using one of the other construction delivery methods.
- County selects Construction Manager Agent (“CMA”) through an RFP on the basis of demonstrated competence and qualifications in the same manner as under the Professional Services Procurement Act.
- The CMA serves as a consultant to the County, and oversees and coordinates work under the construction contract(s).

- CMA must be required to provide professional liability or errors and omissions insurance in the amount of at least \$1 million for occurrence.

E. Design/Build for Architectural Projects. This is a method where the County contracts with a single entity to design and build the project.

- County selects its own A/E to develop a design-criteria package for the project.
- Selection of the design/build team, consisting of A/E and the contractor, is made in two phases. In Phase 1, County prepares an RFQ for a design/build team that includes general information on the project, selection criteria, project scope, budget, and the design-criteria package, and evaluates each respondent based on experience, competence and other qualifications.
- In Phase 2, the County selects five or fewer respondents to receive an RFP. The County will rank the teams and make its selection based on the selection criteria and ranking.
- If County cannot negotiate a contract with the first ranked team, it moves down the rank until a design builder is selected or all respondents are rejected. The County must make the ranking public not later than the 7th day after the date the contract is awarded.
- The design/build team designs the plans and constructs the project.
- The team is responsible for all pre-construction and construction phase services described in their scope of work.

F. Job Order Method. This method is used for repairs, rehabilitation, alteration or minor construction for a building or buildings when the work is of a recurring nature, such as re-carpeting, re-roofing, or re-painting interiors or exteriors, but the delivery times are indefinite. It cannot be used for civil engineering project(s) or for large construction project(s), such as the construction of a building.

- If a job order contract or an order requires A/E services, those services must be provided in accordance with the manner provided by law.
- To select the contractor, the County prepares a RFP which sets out the Selection Criteria, and may require a proposal for unit prices. The County evaluates and ranks the contractors.
- The County may select more than one contractor in connection with each RFP.

SECTION 12
DESIGN BUILD PROCEDURES FOR CERTAIN CIVIL WORKS PROJECTS

The County is authorized to use the design-build construction method for the construction of certain civil works projects including roads, streets, bridges, utilities and storm drainage and flood control projects. The following requirements must be followed in procuring a design-builder for this type of project. (Provisions of the statute applicable to entities other than counties have been deleted.)

Sec. 2269.351. DEFINITIONS: In this subchapter:

- (1) "Civil Works Projects" means:
 - (A) Roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects, or transit projects;
 - (B) Types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and
 - (C) Building or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.
- (2) "Design-Build Firm" means a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.
- (3) "Design-Criteria Package" means a set of documents that:
 - (A) Provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project; and
 - (B) Permits a design-build firm to:
 - (i) Assess the scope of work and the risk involved; and
 - (ii) Submit a proposal on the project.

Sec. 2269.352. APPLICABILITY. This subchapter applies to a governmental entity that:

- (1) Has a population of more than 100,000 within the entity's geographic boundary or service area.

Sec. 2269.353. CONTRACTS FOR CIVIL WORKS PROJECTS: DESIGN-BUILD

- (A) A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project. In using this method and in entering into a contract for the services of a design-build firm, the contracting governmental entity and the design-build firm shall follow the procedures provided by this subchapter.
- (B) A contract for a project under this subchapter may cover only a single integrated project. A governmental entity may not enter into a contract for aggregated projects at multiple locations. For purposes of this subsection:
 - (1) A water treatment plant, including a desalination plant, that includes treatment facilities, well fields, and pipelines is a single integrated project.
- (C) A governmental entity shall use the following criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project:
 - (1) The extent to which the entity can adequately define the project requirements;
 - (2) The time constraints for the delivery of the project;

- (3) The ability to ensure that a competitive procurement can be held; and
- (4) The capability of the entity to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

Sec. 2269-354. LIMITATION ON NUMBER OF PROJECTS

- (1) A governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six (6) projects in any fiscal year;
- (2) A governmental entity that has a population of 100,000 or more but not less than 500,000 may enter into contracts under this subchapter for not more than four (4) projects in any fiscal year.

Sec. 2269.355. USE OF ENGINEER

- (A) The governmental entity shall select or designate an engineer who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works project. The selected or designated engineer has full responsibility for complying with Chapter 1001, Occupations Code.
- (B) If the engineer is not a full-time employee of the governmental entity, the governmental entity shall select the engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Sec. 269.356. USE OF OTHER PROFESSIONAL SERVICES

- (A) The governmental entity shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the civil works project by the entity:
 - (1) Inspection Services;
 - (2) Construction Materials Engineering and Testing; and
 - (3) Verification Testing Services
- (B) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

Sec. 2269.357. REQUEST FOR QUALIFICATIONS

- (A) The governmental entity shall prepare a request for qualifications that includes:
 - (1) Information on the civil works project site;
 - (2) Project scope;
 - (3) Project budget;
 - (4) Project schedule;
 - (5) Criteria for selection under Section 2269.359 and the weighting of the criteria; and
 - (6) Other information that may assist potential design-build firms in submitting proposals for the project.
- (B) The governmental entity shall also prepare a design criteria package as described by Section 2269.358.

Sec. 2269.358. CONTENTS OF DESIGN CRITERIA PACKAGE

- (A) A design criteria package may include, as appropriate:
 - (1) Budget or cost estimates;
 - (2) Information on the site;

- (3) Performance criteria;
- (4) Special material requirements;
- (5) Initial design calculations;
- (6) Known requirements;
- (7) Quality assurance and quality control requirements;
- (8) The type, size, and location of structures; and
- (9) Notice of any ordinances, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized businesses.

Sec. 2269.359. EVALUATION OF DESIGN-BUILD FIRMS

- (A) The governmental entity shall receive proposals and shall evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted at this stage.
- (B) Each offeror must:
 - (1) Select or designate each engineer that is a member of its team based on demonstrated competence and qualifications, in the manner provided by Section 2254.004; and
 - (2) Certify to the governmental entity that each selection or designation was based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.
- (C) The governmental entity shall qualify offerors to submit additional information and if the entity chooses, to interview for final selection.

Sec. 2269.360. SELECTION OF DESIGN-BUILD FIRM

The governmental entity shall select a design-build firm using a combination of technical and cost proposals as provided by Section 2269.361.

Sec. 2269.361. PROCEDURES FOR COMBINATION OF TECHNICAL AND COST PROPOSALS.

- (A) A governmental entity shall request proposals from design-build firms identified under Section 2269.359(c). A firm must submit a proposal not later than the 180th day after the date the governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:
 - (1) A design criteria package;
 - (2) If the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;
 - (3) Detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and
 - (4) The relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.
- (B) The technical proposal is a component of the proposal under this section.
- (C) Each proposal must include a sealed technical proposal and a separate sealed costs proposal.
- (D) The technical proposal must address:
 - (1) Project approach;

- (2) Anticipated problems;
 - (3) Proposed solutions to anticipated problems;
 - (4) Ability to meet schedules;
 - (5) Conceptual engineering design; and
 - (6) Other information requested by the governmental entity.
- (E) The governmental entity shall first open, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The governmental entity may reject as non-responsive any firm that makes a significant change to the composition of its firm as initially submitted. The governmental entity shall subsequently open, evaluate, and score the cost proposals from firms that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The governmental entity shall select the design-build firm in accordance with the formula provided in the request for proposals.

IDENTIFICATION OF PROJECT TEAM:

- (A) A governmental entity may require a design-build firm responding to a request for detailed proposals to identify companies that will:
- (1) Fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and
 - (2) Serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.
- (B) If a design-build firm required to identify companies under Subsection (A) is selected for a design-build agreement, the firm may not make changes to the identified companies unless an identified company:
- (1) Is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the design-build firm;
 - (2) Voluntarily removes itself from the team;
 - (3) Fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or
 - (4) Fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.
- (C) If the design-build firm makes team changes in violation of Subsection (B), any cost savings resulting from the change accrue to the governmental entity and not to the design-build firm.

Sec. 2269.362. NEGOTIATION

After selecting the highest ranked design-build firm under Section 2269.361, the governmental entity shall first attempt to negotiate a contract with the selected firm. If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiated with all ranked firms end.

Sec. 2269.363. ASSUMPTION OF RISKS

The governmental entity shall assume:

- (1) All risks and costs associated with:
 - (A) Scope changes and modifications, as requested by the governmental entity;

- (B) Unknown or differing site conditions unless otherwise provided by the governmental entity in the request for proposals and final contract;
 - (C) Regulatory permitting, if the governmental entity is responsible for those risks and costs by law or contract; and
 - (D) Natural disasters and other force majeure events unless otherwise provided by the governmental entity in the request for proposals and final contract; and
- (2) All costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

Sec. 2269.364. STIPEND AMOUNT FOR UNSUCCESSFUL OFFERORS

- (A) Unless a stipend is paid under Subsection (C), the design-build firm retains all rights to the work product submitted in a proposal. The governmental entity may not release or disclose to any person, including the successful offeror, the work product contained in an unsuccessful proposal. The governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The governmental entity or its agents may not make use of any unique or non-ordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.
- (B) A violation of this section voids the contract for the project entered into by the governmental entity. The governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror. Any interested party may bring an action for an injunction, declaratory relief, or damages for a violation of this section. A party who prevails in an action under this subsection is entitled to reasonable attorney's fees as approved by the court.
- (C) The governmental entity may offer an unsuccessful design-build firm that submits a response to the entity's request for additional information under Section 2269.361 a stipend for preliminary engineering costs associated with the development of the proposal. The stipend must be one-half of one percent of the contract amount and must be specified in the initial request for proposals. If the offer is accepted and paid, the governmental entity may make use of any work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the governmental entity of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the entity and does not confer liability on the recipient of the stipend under this subsection.
- (D) Notwithstanding other law, including Chapter 552, work product contained in an unsuccessful proposal submitted and rejected under this subchapter is confidential and may not be released unless a stipend offer has been accepted and paid as provided by Subsection (C).

Sec. 2269.365. COMPLETION OF DESIGN

- (A) Following selection of a design-build firm under this subchapter, the firm's engineers shall submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.
- (B) An appropriately licensed design professional shall sign and seal construction documents before the documents are released for construction.

Sec. 2269.366. FINAL CONSTRUCTION DOCUMENTS

At the conclusion of construction, the design-build firm shall supply to the governmental entity a record set of construction documents for the project prepared as provided by Chapter 1001.

Sec. 2269.367. PERFORMANCE OR PAYMENT BOND

- (A) A performance or payment bond is not required for the portion of a design-build contract under this section that includes design services only.
- (B) If a fixed-contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sum of the performance and payment bond delivered to the governmental entity must each be in an amount equal to the construction budget, if commercially available and practical, as specified in the design criteria package.
- (C) If the governmental entity awards a design-build contract under Section 2269.362, the design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid-bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before the commencement of construction.

SECTION 13
PROCEDURES FOR PURCHASING
THROUGH COOPERATIVE PURCHASING PROGRAMS

The County is authorized to participate in cooperative purchasing programs under Section 271.101 of the Texas Local Government Code. The terms used in this Section 13 will have the following meanings:

- (1) "Local cooperative organization" means an organization of governments established to provide local governments access to contracts with vendors for the purchase of materials, supplies, services, or equipment.
- (2) "Local government" means a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of the state.

2) Sec. 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.
- (b) A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will:
 - (1) designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;

- (2) make payments to another participating local government or a local cooperative organization or directly to a vendor under a contract made under this subchapter, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and
 - (3) be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.
- (c) A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Offices and Departments utilizing Cooperative Contracts through the Purchasing Department exceeding \$50,000 will require Commissioners Court approval.

SECTION 14
PROCUREMENT OF PROFESSIONAL SERVICES

CHAPTER §2254. PROFESSIONAL AND CONSULTING SERVICES

SUBCHAPTER A. PROFESSIONAL SERVICES

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;

- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

Sec. §2254.003. SELECTION OF PROVIDER; FEES.

(a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

Sec. §2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR

(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

- (1) formally end negotiations with that provider;
- (2) select the next most highly qualified provider; and
- (3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Sec. §2254.024. EXEMPTIONS

(a) This subchapter does not apply to or discourage the use of consulting services provided by:

- (1) practitioners of professional services described in Subchapter A;
- (2) private legal counsel;
- (3) investment counselors;
- (4) actuaries;
- (5) medical or dental services providers; or
- (6) other consultants whose services are determined by the governing board of a retirement system trust fund to be necessary for the governing board to perform its constitutional fiduciary duties, except that the governing board shall comply with Section §2254.030.

Sec. §2254.027. SELECTION OF CONSULTANT

In selecting a consultant, a state agency shall:

- (1) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and
- (2) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Sec. §2254.032. CONFLICTS OF INTEREST

(a) An officer or employee of a state agency shall report to the chief executive of the agency, not later than the 10th day after the date on which a private consultant submits an offer to provide consulting services to the agency, any financial interest that:

- (1) the officer or employee has in the private consultant who submitted the offer; or
- (2) an individual who is related to the officer or employee within the second degree by consanguinity or affinity, as determined under Chapter 573, has in the private consultant who submitted the offer.

(b) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

SECTION 15 BID PROTESTS

(1) PROTEST PROCEDURES

1. Vendors aggrieved in connection with a specific solicitation, evaluation, or the award of any bid, purchase order, or contract, may formally protest to the Purchasing Director only if the Vendor has reason to believe that, with respect to a specific solicitation, (a) there was a material violation of state or federal statutory requirements, County Purchasing Department rules and regulations, or this Code of Ethics (including the Restricted Contact Period), or (b) the procurement process gave an unfair advantage or unfair disadvantage to one or more Vendors. Procurement processes that may give an unfair advantage or disadvantage to one or more Vendors include, but are not limited to, the following:
 - i. The specification unfairly limits competition for no legitimate purpose;
 - ii. The contract award is compromised by improprieties in post-award negotiations;
 - iii. The evaluation factors or criteria are applied in a manner that is different than disclosed in the solicitation; and
 - iv. There are irregularities in the receipt or opening of solicitation responses.

Protests must be in written form and must contain the following information (if applicable):

- i. The protesting Vendor's name, address, telephone number, fax number, and email address;
- ii. The identifying number of the solicitation and/or contract;
- iii. The date the Vendor become aware of the facts forming the basis of the protest;
- iv. A detailed statement of the factual grounds for the protest, including copies of any relevant documents or evidence and the statute, rule, or regulation that was violated, if applicable; and
- v. A sworn certification that the protest is brought in good faith and for good cause. If a protest is based on an ambiguity or a problem in a solicitation, and is made after the solicitation response deadline, it must also include a certification that the protesting Vendor was not aware of the ambiguity or problem (and did not have an opportunity to ask for clarification or a correction) before the solicitation response deadline.

Protests must timely raise all claims and describe the evidence supporting those claims with specificity. Any claims that are not timely raised may be deemed waived. In the event of a protest during a solicitation response period, a protesting Vendor who wishes to continue in the solicitation process during such protest must still submit a bid or proposal according to the rules set forth in the solicitation.

Protests, including any protest appeals requests, must be sent by mail or email to the Dallas County Purchasing Director at 1201 Elm, 24th Floor, Suite 2400-B, Dallas, TX 75270 or Daniel.Garza@dallascounty.org. Mail-in requests must be postmarked and email requests must be received by the Purchasing Director no later than (a) five (5) business days after the date that the protesting Vendor knew or should have known of the facts giving rise to the protest, or (b) before the contract is awarded, if the Vendor is aware of the facts giving rise to the protest prior to the contract award, whichever is earlier.

It is the responsibility of the Vendor to ensure that solicitation protests are delivered to the Purchasing Director within the time period stated herein. Protests that are late or delivered to an incorrect address or individual, or that otherwise do not comply with these rules (including providing the sworn certification as described above), will be declared invalid.

Written Decision. All protests will be initially reviewed by the Purchasing Director, who must rule on the protest and provide a written decision, including the reasons for the decision and the decision date, to the protesting Vendor within ten (10) business days (the "Written Decision"). Any appeal of the Written Decision must be made within five (5) business days of the receipt thereof.

Appeals Process. Appeals of the Written Decision should be sent to the Purchasing Director at the address above, who shall notify the Appeals Committee, consisting of the County Administrator, the County Auditor, and the County Budget Director. The Purchasing Director shall serve as staff to the Appeals Committee and will be present at the Appeals Hearing. The protesting Vendor shall be notified of the time and place of the Appeals Hearing and will be provided an opportunity to present arguments. The documentary evidence at the Appeals Hearing is limited to the documentary evidence submitted for the original protest unless, for good cause shown, the Appeals Committee grants authority for the

protesting Vendor to provide additional documentary evidence. The protesting Vendor shall seek approval to submit additional documentary evidence for good cause as soon as possible, but no later than (a) five (5) days before the hearing, or (b) within seventy-two (72) hours from when the protesting Vendor knew or should have known about the additional evidence, whichever period is shorter. The request should include copies of the additional documents that the protesting Vendor seeks authority to use at the hearing. The Appeals Committee may appoint an independent hearing examiner to conduct the hearing and provide a written recommendation, if needed. A written final decision, including the reasons for the final decision and the decision date, will be provided to the protesting Vendor within ten (10) business days of the Appeals Hearing (the “Final Decision”). Requests for an appeal of the Final Decision must be mailed or emailed to the Purchasing Director within five (5) business days of the Final Decision, who will notify the Commissioners Court of the request.

A Commissioners’ Hearing may take place at the discretion of the Commissioners Court. A single vote of a Commissioner on the Commissioners Court is required for a Hearing to be granted. The Commissioners may, at any time during the process, review the written record of the previous decisions on the matter. All decisions of the Commissioners Court, including whether to allow a Commissioners’ Hearing, are final.

Right to Appear before the Commissioners Court. All individuals and entities have the right to an appearance before the Commissioners Court subject to the rules of the Court, this Code of Ethics, and, during an Active Solicitation, the Restricted Contact Period provisions in Section 6 herein. However, a protesting Vendor does not have an automatic right to a Commissioners’ Hearing on any protest appeal under this Code of Ethics, which will be granted only at the discretion of the Commissioners Court.

Notification. Protest hearings are open to the public. Public notification of any hearings, including Appeals Hearings and Commissioners’ Hearings, shall be posted on the Dallas County Purchasing website at www.dallascounty.org/department/purchasing.

Solicitations and Contracts Pending. Filing a protest under this Section will not trigger an automatic stay of any procurement process or contract award. It is in the discretion of the Purchasing Director and the Commissioners Court whether to stay any procurement process or contract award with respect to any Vendor protest. Whether a stay is granted shall not compromise any protesting Vendor’s right to the protest procedures outlined herein.

Records. Records of all protests, including the protest filed, related evidence, and any Written and Final Decisions (including the outcome of any Commissioners’ Hearing, if applicable) will be maintained by the Purchasing Department for a period of no less than four (4) years.

2. **Training.** Procurement Professionals shall participate in regular training courses to ensure their knowledge and understanding of this Code of Ethics, as well as to enhance their skills, learn best practices, and better perform their duties related to contracting and contract solicitation.
3. **Notice and Affidavit of Compliance.** A copy of this Code of Ethics shall be included with each public solicitation request. Vendors that submit a response to an Active Solicitation must include an Affidavit of Compliance with this Code of Ethics in order for the response to be eligible. Upon contract award, Vendors shall include a copy of this Code of Ethics as an

attachment to any subcontract awarded under a County contract. Procurement Professionals will be required to sign an Acknowledgement of this Code of Ethics, which will be kept in the employee's file, and once a year, or upon any updates or revisions, whichever is sooner, this Code of Ethics will be sent by the Purchasing Department to all Dallas County employees and Elected Officials in a broadcast email. Copies of this Code of Ethics shall be available on the County Procurement website at www.dallascounty.org/department/purchasing and at the County Purchasing Department at 1201 Elm St., 24th Floor, Suite 2400-B, Dallas, TX 75270.

4. **Affidavit of Compliance.** Vendors that participate in a solicitation will be required to submit an Affidavit of Compliance with this Code of Ethics as part of the finalization of any bid or proposal. Vendors who choose not to submit an Affidavit of Compliance will not be eligible to compete for a contract award, and any of the Vendors' submitted bids or proposals on that solicitation will be deemed ineligible.
5. **Audit.** Procurement Professionals shall develop regular internal and external audit programs to ensure compliance with this Code of Ethics.
6. **Vendor Disqualification, Debarment, and Contract Voidance.** The Commissioners Court and the Purchasing Director may disqualify or debar a Vendor, its partners, principals, members, directors, officers, responsible managing employees, agents, successors-in-interest, and other affiliates from bidding on or entering into contracts with the County (including participating as a sub-consultant or sub-contractor, or providing goods, services, materials, equipment, or other benefits to any County project). Successors-in-interest include, but are not limited to, any person with interlocking management or ownership, identity of interests among relatives (as defined herein), shared facilities and equipment, common use of employees, or a business entity organized subsequent to the debarment or other action under this Section that has the same or similar management, ownership, or principal employees as the debarred Vendor.

Disqualification. A Vendor may be disqualified from submitting a bid or proposal on and/or competing for any Active Solicitation(s). Vendor's disqualification includes any Related Solicitations.

Debarment. A Vendor may be debarred from participating in the County procurement process and from signing any new contracts with the County for a period of no more than three (3) years per violation. If a Vendor has been disqualified more than three times in a three year period, the Vendor will be automatically debarred provided that the Vendor is given written notice and an opportunity for a hearing in advance of the debarment.

Contract Voidance. Any contracts awarded to a Vendor who is subsequently disqualified or debarred are voidable at the discretion of the Commissioners Court.

Grounds. The following actions constitute a nonexclusive list that may be grounds for disqualification, debarment, or voidance of a contract:

- Unsatisfactory performance of a contract or a history of unsatisfactory performance;
- Continued acceptance of goods, services, or Vendor performance under the contract that may constitute a hazard to health, safety, welfare, or property;

- Failure to provide contracted services or failure to comply with the terms and conditions of any contract;
- Refutation of an offer by failure to provide bonds, insurance, or other required certificates within a reasonable time period;
- Unwillingness to honor a binding bid;
- Knowingly and intentionally providing false information, whether during the procurement process or otherwise;
- Violation of the Restricted Contact Period;
- Violation of any other statute, rule, regulation, or order related to gifts, gratuities, favors, or bribes;
- Debarment by any other local, state, or federal governmental entity;
- Violation of this Code of Ethics;
- A finding of guilt, whether by verdict or plea or nolo contendere, to a felony or Class A or B misdemeanor for any violation involving charges of fraud, bribery, collusion, larceny, theft of services, coercion, conspiracy, payment of kickbacks, violation of antitrust laws, or any charges involving moral turpitude, or any other criminal act based on an intent to commit fraud in the procurement or performance of any governmental contract or to defraud any governmental entity in the provision of goods or services; or
- Commission of any of the above acts in any other contracting or procurement process with any other governmental entity.

While these actions may be grounds for disqualification or debarment, the Commissioners Court and the Purchasing Director may decide to disqualify or debar a Vendor or other individual for any reason at any time.

Notice. The Purchasing Director will notify the Vendor by the most expeditious method available, including, but not limited to, telephone, e-mail, and fax, of the potential disqualification, debarment, or contract voidance. In addition to the most expeditious method, the Purchasing Director shall also notify the Vendor in writing via certified mail, return receipt requested.

Debarment/Disqualification Procedure. The Purchasing Director will notify the Vendor that (a) the Vendor is subject to being disqualified or debarred; (b) the basis for the potential disqualification or debarment, which shall be in terms sufficient to apprise the Vendor of the conduct or transaction(s) upon which the disqualification or debarment is based; (c) the effective date of the potential disqualification or debarment, which may be immediately, and if applicable, the duration of the debarment; and (d) that the Vendor has seventy-two (72) hours to respond from the time of notice, upon which, if no response has been received by the Purchasing Director, no further action may be taken by the Vendor and the disqualification or debarment shall be in effect. The Vendor is presumed to have received notice upon receipt of fax or email confirmation or receipt returned by U.S. mail, whichever

period is shorter. The Vendor response, if any, should include a response to each reason for the disqualification or debarment that the Purchasing Director cites in the notice and shall include all facts and evidence that the Vendor believes are relevant, including any supporting documentation. The Purchasing Director will review the Vendor's response, if any, and shall determine within three (3) business days of the response deadline if the disqualification or debarment shall be in effect (the "Final Decision"). The Purchasing Director will notify the Vendor of the Final Decision by the most expeditious method available, and in writing via certified mail, return receipt requested.

Contract Voidance Procedure. The Purchasing Director (with the Commissioners Court's approval) will notify the Vendor that (a) it is being investigated for a potential contract voidance; (b) the basis for the contract voidance, which shall be in terms sufficient to apprise the Vendor of the conduct or transaction(s) upon which the contract voidance is based; and (c) that the Vendor has ten (10) business days to respond from the time of notice, upon which, if no response has been received by the Purchasing Director, no further action may be taken by the Vendor, and the contract will be void. The Vendor is presumed to have received notice upon receipt of fax or email confirmation or receipt returned by U.S. mail, whichever period is shorter. The Vendor response, if any, should include a response to each reason for the contract voidance that the Purchasing Director cites in the notice and shall include all facts and evidence that the Vendor believes are relevant, including any supporting documentation. The Purchasing Director and the Commissioners Court will review the Vendor's response, if any, and shall determine within fourteen (14) business days of the response deadline if the Vendor's contract should be voided (the "Final Decision"). The Purchasing Director will notify the Vendor of the Final Decision by the most expeditious method available, and in writing via certified mail, return receipt requested.

Appeals Process. Vendors who submit an initial response to a disqualification, debarment, or contract voidance notice may appeal any Final Decision within five (5) business days after notice of the Final Decision is received. All appeals under this Section shall be subject to the *Appeals Process* as described in Section 15 above.

Appeal requests should include the following information:

- i. The Vendor's name, address, telephone number, fax number, and email address;
- ii. The Vendor's response to each complaint or allegation forming the basis of the disqualification, debarment, or contract voidance, including all facts and evidence that the Vendor believes are relevant and any supporting documentation;
- iii. Any mitigating circumstances, including impossibility, force majeure, or mutual mistake;
- iv. Any remedial measures taken by the Vendor, including immediately identifying and remedying the cause of the failure to perform, disciplinary actions against responsible individuals, or cooperation with County investigations; and
- v. A sworn certification that the appeal is brought in good faith and that the factual statements in the appeal are true and correct.

Failure to file a timely, compliant appeal of any disqualification, debarment, or contract avoidance (including providing the sworn certification as described above) waives any right to an appeal.

SECTION 16

EMERGENCY MANAGEMENT REQUIREMENTS

1. **Overview.** The Dallas County Office of Homeland Security and Emergency Management is the lead County agency that manages major emergency operations during emergency and disaster events. They have the overall responsibility to coordinate with all County departments and State/Federal agencies to better ensure adequate resources (personnel and equipment) are available to respond to and recovery from catastrophic events.

Emergency management operations have evolved to an all-hazards approach that includes potential threats to the life and property through environmental, biological and technological hazards, and domestic and foreign attacks. Dallas County is required to provide, develop and maintain a comprehensive emergency procurement policy that discusses how the County government will manage emergency purchases and required documentation. This policy applies before, during and following:

- i. *Emergency.* An occurrence or imminent threat of a condition, incident or event that requires immediate response actions to save lives; prevent injuries; protect property, public health, the environment, and public safety; or to lessen or avert the threat of disaster (Texas Local Government Code Section: 418.002).
 - ii. *Disaster.* The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency (Texas Local Government Code Section: 418.002).
2. **Emergency Circumstances.** While purchasing procedures are in place on a day-to-day basis, when an emergency or disaster occurs, it may be necessary to change normal procedures to allow County officials the lead way to make purchases under emergency circumstances. Emergency purchases are authorized in limited circumstances: (a) in the event of public calamity for the benefit of the county residents or to protect public property; (b) in order to protect the public health or safety of county employees or residents; or (c) when made necessary by unforeseen damage to public property.
 3. **Emergency Purchase Authorizations.** The County Judge is responsible for the overall coordination of emergency and disaster events, executing the County Emergency Operations Plan and activating the County Emergency Operations Center (EOC). The County Judge or designee may authorize spending of County funds and authorize purchases when there is an immediate need for items or services to deal with the emergency event. This could occur before, during or following a declared or non-declared local disaster. The event may include non-declared emergency events such as the Ebola health event. All emergency and disaster events are managed in accordance with Chapter 418 of the Texas Government Code (TGC).

As stated in the TGC, in Title 37, Part 1, Chapter 7 of the Texas Administrative Code, “mayors and county judges serve as emergency management directors, bearing the responsibility for maintaining an emergency management program within their respective jurisdictions. He may appoint an emergency management coordinator to administer the program. The mayor and county judge are authorized by the Texas Disaster Act to declare a local disaster when conditions exist or when there is an immediate threat.”

Chapter 418 continued...“The mayor or county judge may declare a local disaster without the consent of the city council or county commissioners, respectively. However, the declaration may last no longer than seven days unless continued by the city council or county commissioners. During emergencies, local governments are expected to use their own resources first in a local response. If local resources are insufficient, state assistance may be requested.”

A local disaster may be declared for any of the following reasons:

- i. To exercise extraordinary powers;
- ii. To formally implement provisions of emergency plans;
- iii. To provide additional liability protection to government agencies and special or volunteer emergency workers;
- iv. To formally request general assistance from the State and federal governments; and
- v. To activate preparedness, response, and recovery aspects of any and all applicable local emergency plans.

Emergencies affecting County facilities and infrastructure, occurring during normal business hours, shall be managed within the normal course of business. The County Administrator or designee shall approve emergency procurements needed to mitigate the emergency.

In the event the emergency occurs at night, weekends or on holidays, the applicable department director or designee may initiate independent action to make emergency repairs, with timely notification to the County Administrator or designee.

4. **Duties and Responsibilities.** The County Emergency Management Coordinator (EMC), in consultation with the County Judge, shall activate and manage the County Emergency Operations Center (EOC). The EMC shall notify all identified County officials and personnel needed to staff and operate the EOC, at the appropriate activation level, in order to manage emergency events. The EOC will allow the platform from which to manage all financial and purchasing activities associated with the emergency event.

Upon request, the County Purchasing Director shall designate an individual(s) to work, in conjunction with the Office of Homeland Security and Emergency Management, to manage all procurement activities before, during and following an emergency or disaster event. The Director will send senior level representation to the County EOC, if activated. All emergency purchases shall be completed by the Purchasing Director or designee. The Director shall establish expenditure authorization levels as appropriate to the event.

The County Purchasing Director shall prepare and execute pre-disaster contracts such as debris cleanup, debris management, emergency manpower, disaster consulting, hazardous waste transport, disaster resources, etc. These contracts shall periodically be renewed in accordance with standard County purchase requirements. As appropriate, the Director shall activate and oversee these contracts during the emergency event.

In the event County departments are required to make purchases associated with the emergency or disaster event, the department head or designee shall contact the Procurement Director or designee before making such purchases. This will allow event costs to be tracked and documented.

The County Auditor or designee shall send a senior level representative to the County EOC, upon request. They will be required to provide comprehensive documentation of damages, materials, and personnel costs before, during and following the course of the emergency event. They shall track and maintain a list of approved expenses for review by the County Judge, County Administrator and Commissioners.

The County Auditor or designee shall establish budget cost codes and mechanisms necessary to track all eligible expenditures and employee costs during and following an emergency event.

Upon receiving a federal declaration of emergency, and qualified for disaster assistance under the Robert T. Stafford Act, The County Auditor or designee shall be the designated as County representative to work with FEMA to report authorized costs. The Auditor or designee shall aggressively seek FEMA reimbursement for all eligible County expenditures associated with the emergency or disaster event. They shall create and submit all required paperwork to FEMA.

Based on the nature of the event, the County Treasurer or designee shall be responsible for maintaining appropriate levels of emergency cash reserves for use when a state of emergency is declared by the County Judge. These funds may be used to assist departments with access to cash for use in disaster recovery. Emergency cash expenditures shall be limited to purchase of goods or services that cannot reasonably be accommodated through existing contracts and serve to directly assist in disaster recovery such as; cashing checks, loans to employees, payroll advances to employees, etc. All cash expenditures must be pre-approved by the County Judge and/or Commissioners Court.

If necessary, the County Administrator or designee shall conduct an assessment of County buildings, infrastructure and grounds to estimate damage caused by the event. The Administrator's office shall report these estimates to the EOC, as quickly as feasible. Cost associated with temporary or permanent repairs shall be reported to the Auditor so they may be tracked to allow for FEMA reimbursement (if approved). All purchases associated with damage repair shall be coordinated with purchasing representative.

5. General Purchasing Provisions. In the event of an emergency or disaster, the County shall adhere to standard day-to-day purchasing rules to the extent possible. Within 72 hours or sooner, the County should be able to return to normal procurement practices and procedures. The following activities and actions are generally prohibited during emergencies:

- i. Certain types of contracts should be avoided such as time and materials contracts, costs plus percentage contracts and contracts that are “piggybacked”.
- ii. Purchase of items that are above FEMA allowable costs without justification.
- iii. Contracts that are not competitively bid.
- iv. Verbal contracts.
- v. Blanket contracts (each contract must be specific).

During emergencies, to the extent possible, the County should maximize use of County, inter-local, cooperative purchasing contracts and U.S. General Services Administration (GSA) Federal Supply Schedules. For supplies and services not available from established contracts, the competitive bid procedures should be followed as promulgated by State and local procurement rules and regulations. Applicable contracts must be reasonable cost, generally must be competitively bid, and must comply with Federal, State and local procurement standards.

6. Emergency Purchase Order Guidelines. Many goods and services can be exempt from the competitive bid process. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made from current funds, bond funds, or through warrants. Applicable to this section of the purchase manual are the following exemptions:

- i. Goods and services that must be purchased in a case of public calamity, if it is necessary to make the purchase promptly to relieve the necessity of the Citizens, or to preserve the property of the County.
- ii. Goods and services necessary to preserve or protect the public health or safety of the residents of the County.
- iii. Goods and services necessary because of unforeseen damage to public property.
- iv. Personal or professional services.

The Texas Government Code requires that a Court Order be granted by the Commissioners Court before a purchase order may be issued for emergency purchases that exceed \$50,000 except in a declared emergency by County judge and/or Commissioners Court.

FEMA recommends the following be taken in consideration when making emergency purchases:

- i. Renting and leasing equipment and materials shall be given precedence over outright procurement, unless it is cheaper to buy the equipment than to rent or lease. FEMA strongly prefers requests for reimbursement on rented items.
- ii. Oral contracts can severely jeopardize the County’s ability to receive reimbursement from FEMA. Specify in writing quantities, prices, and specific items being purchased.

- iii. Security bonds are required. They must be issued by or countersigned by an agent authorized to do business in Texas. Performance bond must cover all costs associated with the project. Do not allow an irrevocable line of credit to be substituted for a performance bond.
- iv. County will ensure vendors who have been debarred, suspended or considered ineligible by FEMA and by the State of Texas will not be engaged in disaster recovery work.
- v. Contracts for removal of debris or wreckage should be based on fixed price, unit price or lump sum. Avoid time and materials contracts.
- vi. Contracting for construction work should be based on competitive bids.
- vii. To the extent feasible and practicable, contractors residing or doing business primarily within Dallas County should be engaged in disaster recovery work. FEMA encourages contractors to support the local economy. All contracts entered into that will involve FEMA claims must state that the contractors will use materials and suppliers and hire laborers to the extent possible within the disaster area.

7. **Documentation of Disaster Costs.** The Office of Homeland Security and Emergency Management, in conjunction with the Dallas County Auditor or designee, shall work with identified County departments to obtain expenses and other costs associated with the event.

Each County Department, with eligible personnel or other costs, must fully document those costs on an on-going basis before, during and following the event. The County Auditor or designee shall establish cost tracking budget codes for use by identified departments to document eligible reimbursable costs.

8. **FEMA Reimbursement.** Upon receiving a federal declaration of emergency, and qualified for disaster assistance under the Robert T. Stafford Act, Dallas County may apply for reimbursement of eligible disaster Public Assistance (PA) expenses. Federal disaster relief assistance will not be more than 75% of eligible costs and Dallas County may be expected to share in a portion, or all of the balance. All funds received under this program must comply with all applicable state and federal rules and regulations, including Parts 13 and 14, 44 CFR. The Dallas County Auditor's Office is the lead County agency for submission of FEMA reimbursement information to FEMA, on behalf of the County.

The following checklist was developed within the Code of Federal Regulations 2 CFR 200 and is entitled Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards: Procurements by States.

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CHECKLIST FOR REVIEWING EMERGENCY PROCUREMENTS

- (1) Does the procurement comply with the State’s own procurement laws, rules, and procedures? §200.317 [] Yes [] No
- (2) Does the procurement comply with the requirement to make maximum use of recovered/recycled materials? §200.317, §200.322 [] Yes [] No [] N/A – work does not involve the use of materials (e.g., debris removal or other services)
- (3) Does the contract include the following clauses?
- a. If the contract amount exceeds \$150,000, does it address administrative contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for sanctions and penalties? [] Yes [] No [] N/A
 - b. If the contract amount exceeds \$10,000, does it address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement? [] Yes [] No [] N/A
 - c. If the contract is for construction, does it include the required Equal Employment Opportunity Clause? [] Yes [] No [] N/A
 - d. If the contract is for construction exceeding \$2,000 awarded under a Federal Grant, does the contract include a Davis-Bacon Act Clause and Copeland “Anti-Kickback” Act Clause addressing prevailing wage rates? [Note that Public Assistance and Hazard Mitigation Grant Program contracts do not require these clauses.] [] Yes [] No [] N/A
 - e. If the contract amount exceeds \$100,000 and involves the employment of mechanics or laborers, does the contract include a Contract Work Hours and Safety Standards Clause? [] Yes [] No [] N/A
 - f. Rights to Inventions Made Under a Contract or Agreement? [] Yes [] No [] N/A
 - g. If the contract or subgrant amount exceeds \$150,000, does the contract include clauses addressing the Clean Air Act and the Federal Water Pollution Control Act? [] Yes [] No [] N/A
 - h. Does the contract include mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6201)? [] Yes [] No
 - i. Does the contract include a Suspension and Debarment Clause? [] Yes [] No
 - j. Does the contract include an Anti-Lobbying Clause? [] Yes [] No
 - k. For contracts exceeding \$100,000, have bidders submitted an Anti-Lobbying Certification? [] Yes [] No [] N/A
 - l. Does the contract include a clause requiring the contractor to maximize use of recovered / recycled materials? [] Yes [] No [] N/A – work does not involve the use of materials (e.g., debris removal or other services)
- (4) General Information:
- a. Does the procurement comply with the Non-Federal Entity’s own procurement laws, rules, and procedures? §200.318 [] Yes [] No
 - b. Does the Non-Federal Entity maintain contract oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders? [] Yes [] No
 - c. Does the Non-Federal-Entity have - §200.318(c) (1):

- i. Written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts?
 Yes No
- ii. Any employee, officer, or agent participating in the selection, award, or administration of a contract supported by a Federal Award that has an actual or apparent conflict of interest? Yes No
- iii. Any employee, officer, or agent that has solicited and/or accepted gratuities, favors, or anything of monetary value from contractors or parties to subcontracts? Yes No
- iv. Written standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Non-Federal-Entity? Yes No
- d. If the Non-Federal-Entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian Tribe, does the Non-Federal-Entity have written standards of conduct covering organizational conflicts of interest? Yes No N/A
- e. The Non-Federal-Entity must avoid acquisition of unnecessary or duplicative items. Has the Non-Federal-Entity consolidated or breaking out procurements to obtain a more economical purchase? Where appropriate, has the Non-Federal-Entity considered lease versus purchase alternatives? §200.318(d) Yes No
- f. Encouraged, but not required standards.
- g. Is the contract being awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of the proposed procurement, giving consideration to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources? §200.318(h) Yes No
- h. Is the Non-Federal-Entity keeping records sufficient to detail the history of the procurement, including, but not limited to, records documenting the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price? §200.318(i) Yes No
- i. Is the contract a time-and-materials contract? §200.318(j) Yes No
 - i. If so, has the Non-Federal-Entity documented why no other contract is suitable?
 Yes No
 - ii. Does the contract include a ceiling price that the contractor exceeds at its own risk?
 Yes No
- j. Is the Non-Federal-Entity alone responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements? §200.318(k) Yes No

(5) Competition:

- a. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. Does the procurement involve any of the following §200.319(a):
 - i. Placing unreasonable requirements on firms in order for them to qualify to do business? Yes No
 - ii. Requiring unnecessary experience and excessive bonding? Yes No
 - iii. Non-Competitive pricing practices between firms or between affiliated companies?
 Yes No

- iv. Non-Competitive contracts to consultants that are on retainer contracts? Yes No
- v. Organizational conflicts of interest? Yes No
- vi. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement? Yes No
- vii. Any arbitrary action in the procurement process? Yes No
- b. Was the contractor that is bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids or request for proposals? (If so, that contractor must be excluded from competing for such procurements) §200.319(a) Yes No N/A
- c. Does the contract include a state or local geographic preference for local contractors? §200.319(d) Yes No
- d. Do the Non-Federal-Entity’s written procurement procedures ensure that all solicitations comply with the following §200.319(c):
 - i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured? §200.319(c) (1) Yes No
 - ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals? §200.319(c) (2) Yes No
- e. If the Non-Federal-Entity is using a prequalified list of persons, firms, or products which are used in acquiring goods and services: §200.319(d) Yes No N/A
 - i. Is the list Current? Yes No
 - ii. Does the list include enough qualified sources to ensure maximum open and free competition? Yes No
 - iii. Were any potential bidders precluded from qualifying during the solicitation period? Yes No

(6) Method of Procurement

- a. Is the Non-Funded Entity using one of the following acceptable methods of procurement?
 - i. Micro-Purchase (i.e., purchase below \$3,000, see §200.67 Micro-Purchases). §200.320(a) Yes No
 - 1. (Note: Micro-Purchases may be awarded without soliciting competitive quotations if the Non-Federal Entity considers the price to be reasonable.)
 - 2. To the extent practicable, is the Non-Federal Entity distributing micro-purchases equitably among qualified suppliers? Yes No N/A
 - ii. Small Purchase Procedures §200.320(b) Yes No
 - 1. (Note: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the lesser of either (1) the federal small purchase threshold (i.e., \$150,000), or (2) whatever amount State or local procurement rules set as the small purchase threshold – if more restrictive than the federal threshold.)
 - 2. Did the Non-Federal Entity obtain price or rate quotations from an adequate number of qualified sources? Yes No N/A
 - iii. Sealed Bids §200.320(c) Yes No
 - 1. (Note: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the lesser of either (1) the federal small purchase threshold (i.e., \$150,000),

- or (2) whatever amount State or local procurement rules set as the small purchase threshold – if more restrictive than the federal threshold.)
2. Did the Non-Federal Entity obtain price or rate quotations from an adequate number of qualified sources? Yes No N/A
 - a. A complete, adequate, and realistic specification or purchase description is available Yes No
 - b. Two or more responsible bidders are willing and able to compete effectively for the business Yes No
 - c. The procurement lends itself to a firm price contract and the selection of the successful bidder can be made principally on the basis of price Yes No
 3. If sealed bids are used, the following requirements apply: §200.320(c)(2)
 - a. Did the Non-Federal Entity solicit bids from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids? Yes No
 - b. If the Non-Federal Entity is a local or tribal government, was the invitation for bids publically advertised Yes No N/A
 - c. Did the invitation for bids include any specifications and pertinent attachments, and define the items or services in order for the bidder to properly respond? Yes No
 - d. Did the Non-Federal Entity open all bids at the same time and place prescribed in the invitation for bids? Yes No
 - e. For local and tribal governments, were the bids opened publicly? Yes No
 - f. Did the Non-Federal Entity award a firm fixed price contract award in writing to the lowest responsive and responsible bidder? Yes No
 - g. If any bids were rejected, was there a sound documented reason supporting the rejection? Yes No N/A
 - iv. Procurement by Competitive Proposals §200.320(d) Yes No
 1. (Note: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.)
 2. Did the Non-Federal Entity publicize the Request for Proposals (RFPs) and identify all evaluation factors and their relative importance? Yes No
 3. Did the Non-Federal Entity solicit proposals from an adequate number of qualified sources? Yes No
 4. Did the Non-Federal Entity have a written method of conducting technical evaluations of the proposals received and for selecting recipients? Yes No
 5. Did the Non-Federal Entity award the contract to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered? Yes No
 6. (Note: Regarding architectural/engineering (A/E) professional services: The Non-Federal Entity may use competitive proposals procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.)

- v. Non-Competitive Proposals §200.320(f) Yes No
 - 1. (Note: Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one (or an improperly limited number of) source(s)).
 - 2. Do one or more of the following circumstances apply? Yes No
 - a. The item is available only from a single source Yes No
 - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation Yes No
 - c. The Federal awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request from the Non-Federal Entity Yes No
 - d. After solicitation of a number of sources, competition is determine inadequate Yes No

(7) Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms:

- a. Has the Non-Federal Entity taken the following affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible? §200.321 Yes No N/A (document)
 - i. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists? Yes No N/A (document)
 - ii. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources? Yes No N/A-no potential sources (document)
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, women’s business enterprises? Yes No N/A-not economically feasible (document)
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s businesses enterprises? Yes No N/A – the requirement does not permit (documents)
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce Yes No N/A-not appropriate (document)
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above? Yes No N/A-no subcontracts will be let (document)

(8) Contract Cost and Price

- a. If the contract amount (including contract modifications) exceeds (\$150,000, did the Non-Federal Entity perform a cost or price analysis? Yes No N/A
- b. Did the Non-Federal Entity negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed? Yes No N/A
- c. Is the contract a “cost plus a percentage of cost” or “percentage of construction cost” contract? (Note: This form of contract is prohibited under the Federal Procurement Standards and is ineligible for FEMA reimbursement) Yes No

(9) Bonding requirements for construction or facility improvement contracts exceeding \$150,000

- a. (Note: For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (i.e., \$150,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the Non-Federal Entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected.)
- b. If such a determination (see above) has not been made, does the procurement include the following? Yes No
 - i. A bid guarantee from each bidder equivalent to five percent of the bid price?
 Yes No N/A
 - 1. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - ii. A payment bond on the part of the contractor for one-hundred percent of the contract price. Yes No N/A
 - 1. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

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SECTION 17
MBE/WBE/DBE AND HUB REQUIREMENTS

Dallas County is wholly committed to developing, establishing, maintaining, and enhancing minority involvement in the total procurement process. It is the policy of Dallas County to involve qualified minority/women-owned businesses, disadvantaged business enterprise and historically underutilized businesses to the greatest extent feasible in the County's procurement of goods, equipment, services, and construction projects. The County, its contractors, their suppliers and subcontractors, and vendors of goods, equipment, services, and professional services shall not discriminate on the basis of race, color, religion, national origin, handicap, gender identity, sexual orientation or sex, in the award and/or performance of contracts. However, competition and quality of work remains the ultimate "yardstick" in contractor, subcontractor, vendor, service, professional service, and supplier utilization. All vendors, suppliers, professionals, and contractors doing business or anticipating doing business with Dallas County shall support, encourage, and implement affirmative steps toward our common goal of establishing equal opportunity for all citizens of Dallas County.

Mission

- To ensure the involvement of qualified M/WBE's/DBE's and HUB's to the greatest extent feasible in the County's procurement of goods, equipment, services, and construction projects
- The M/WBE Office further ensures that all vendors, suppliers, professionals, and contractors doing business or anticipating doing business with Dallas County shall support, encourage, and implement affirmative steps toward the program relative to any/all purchases.

Approval Date

- The M/WBE Program was approved by Dallas County Commissioners Court by Court Order on August 25, 1986.

Purpose

The purpose of the M/WBE Office is to:

- Ensure the implementation of the County's M/WBE Program as court ordered; and,
- Implement a coordinated approach to involve qualified M/WBE businesses to the greatest extent feasible in the County's procurement process.

Seeking and Encouraging Disadvantage Businesses

The county will actively seek and encourage disadvantaged businesses to participate in all facets of the procurement process by:

- (1) Establishing a database of vendors, suppliers, professionals and contractors, which includes majority, minority/women-owned businesses; areas of expertise; and capabilities to perform.

- (2) Establishing a communication link between disadvantaged vendors, suppliers, professionals and contractors that will facilitate their involvement in the procurement process. The county shall also utilize other governmental agencies and established organizations that have as one of their functions the involvement of disadvantaged businesses in the free enterprise system.
- (3) Advertising for bid submittals in a major daily newspaper with county-wide circulation. The advertisement shall be published once a week with the first day of publication being at least 14 days prior to the bid opening date. Longer advertising shall be utilized when feasible to encourage additional competition among bidders. Minority weekly newspapers shall be utilized for permanent display ads referring vendors, suppliers, professionals and contractors to the county disadvantaged business coordinator.
- (4) Restructuring bid proposals, where possible and when beneficial to the county, to include opportunity for firms of varying sizes, to participate in the procurement process of the county for goods, equipment and services over \$10,000.00.

Encouragement of Disadvantaged Business for Construction Projects

- (1) Prospective general contractors shall submit, prior to an award of contract, or with the Commissioners Court approval, prior to commencing work:
 - a. A completed copy of the county statistical report for the company and each proposed and actual subcontractor with a subcontractor of 20 percent or more;
 - b. The name, address and telephone numbers of proposed and actual subcontractors, trade, disadvantaged ownership status, and estimated dollar amount of each actual subcontract;
 - c. The successful general contractor will show documented evidence of a good faith effort in soliciting and securing disadvantaged business involvement for all subcontract and supply activities. A good faith effort plan shall be a guide in determining documentation solicitation and utilization of qualified disadvantaged businesses; and
 - d. Documented evidence of previous use of subcontractors on similar projects with dollar amounts and percentages of total contracts.
- (2) The county shall be notified of subcontractor changes, proposed to actual, as they pertain to the reasons for such changes.
- (3) The contract amount of DBE participation shall never be less than the original subcontractor amount.

SECTION 18 **COUNTY-OWNED PROPERTY**

General Information

The purpose of this document is to provide County department/offices with policies and guidelines regarding the tagging, inventory, and disposal of County controlled and fixed assets.

1. Introduction

Dallas County has thousands of controlled and fixed assets. These assets come in many varieties (i.e. vehicles, firearms, road equipment, computer systems, etc.). Assets are classified as either fixed assets (assets with a useful life greater than three years and a value greater than \$5,000) or controlled assets (assets with a value greater than \$500.00, but less than \$5,000 are tagged and tracked), or High Risk Assets (assets that are sensitive in nature because of liability issues). Combined, they have value of millions of dollars. As public servants we are responsible for the care and custody of this large investment.

To maintain care of this multitude of assets is not an easy job. Accountability is not only our inherent duty as County employees; it is also required by statute. Each employee should demonstrate a personal commitment to protect and account for all equipment, regardless of its current use assignment.

The process of tagging and inventorying controlled and fixed assets is under the direction of the Purchasing Department. A full cooperative effort of all departments/offices allows the Purchasing Department to maintain inventory records. The Purchasing Department has a responsibility for the providing accurate inventory records for controlled and fixed assets and will perform the following duties in support of this responsibility:

- Conduct periodic reviews of department/office to determine that controlled and fixed assets are recorded and reported.
- Prepare inventory records of controlled and fixed assets for County departments/offices.
- Maintain inventory records of controlled and fixed assets reported to the County Auditor's Office.
- Tag a controlled and fixed asset as determined by this policy.
- Input information into the inventory records regarding controlled and fixed assets as determined by this policy.
- Transfer a controlled and fixed asset that is not needed or used by a County department/office.
- Remove tags, dispose of controlled and fixed assets, and update inventory records upon approval by the Commissioners Court.
- Provide a report to the County Auditor an inventory of assets on July 1 of each year.

2. Authority

The Texas Local Government Code requires that the County Purchasing Agent perform several duties related to the acquisition, inventory, and disposal of County assets.

3. Inventory

On July 1 of each year, the County Purchasing Agent shall file with the County Auditor an inventory of assets belonging to the County. The County Auditor shall carefully examine the

inventory and make an accounting for the assets purchased or previously inventoried and not appearing in the inventory.

4. Transfer

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.

5. Definition

Fixed assets are defined as items that possess all of the following characteristics: an original unit cost of \$5,000 or more (including costs to install and implement the asset), physical substance, a life expectancy of more than three years, capable of repeated use, identifiable as an individual unit and accounted for separately (this criteria shall exclude construction and improvements to real property), not intended for resale within its expected useful life, not consumable (e.g. office supplies), and not repair or replacement parts of a larger asset. Dallas County also tracks and reports assets classified as “Controlled Assets.” Controlled Assets are those items with a purchase cost between \$500 and \$5,000. Additionally, the County tracks and reports other assets considered “High Risk Controlled Assets.” These assets generally have a purchase cost below or at those of Controlled Assets but are tagged and reported because of liability, insurance, licensing, or other factors.

b) Fixed Asset - \$5,000 and up; examples include:

- Vehicle
- Road maintenance equipment
- Playground equipment
- Forklift

c) Controlled Asset - \$500.00 up to \$4,999.99; examples include:

- Typewriter
- Mower
- Projector
- Drill press

d) High Risk Controlled Asset - \$0 up to \$4,999.99; examples include:

- Weapon (tagged by proxy using serial number)
- Communication radio
- Camera

- Television and/or VCR
- Computer hardware, desktop computer, notebook, printer, scanner

e) Low Risk Controlled Asset - \$0 up to \$4,999.99; examples include:

- Desks
- Credenzas
- File Cabinets
- Bookcases
- Chairs
- Tables

6. Department / Office Responsibilities

The following outlines the responsibilities of the department/office and the procedures to be followed.

a) Protection

All departments/offices are responsible for controlling and protecting the assets of the County that have been entrusted to them and each County employee has the duty to protect and conserve County assets. The negligent or willful loss or damage of County assets by an employee, including a department head, may be cause for disciplinary action consequences in accordance with the County's policies. Additionally, specific policies regarding the use of technology equipment such as desktop computers, laptops, and cellular phones is provided by the Dallas County Information Technology Department.

b) Representative Designation

The elected official and/or department head is to designate in writing those employees that will assist the Purchasing Department with implementing the provisions of this policy. It is recommended that designations are made for each location in order to facilitate the process of asset tagging, inventory, disposal, and other direct communications regarding assets for that department/office. The official or department head remains responsible for the controlled or fixed assets assigned to the department/office.

c) Receiving

Immediately upon receipt and acceptance of the asset, the department/office shall mark "received" on receiver copy of the purchase order. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

d) Special Acquisitions

Assets obtained by nontraditional means such as donations or leases or that are purchased with funds that are non-County funds through grants, interlocal agreements, or commissary funds or as result of forfeiture proceedings. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

e) Donations

Assets received via donation or contribution, regardless of source, must be evaluated with respect to inclusion in the inventory records. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

f) Funded with other entities (interlocal, grants, etc.)

Departments/offices accepting assets from other governmental entities via interlocal or grant agreements shall notify the Purchasing Department when an asset is received for tagging and reporting.

g) Received Upon Completion of Third Party Contract

In case a third party (contractor), in performance of a contract with the County, purchases an asset and provides the asset to the County, transferring ownership to the County upon completion of the contract. The department/office shall coordinate with the Auditor's Office and Purchasing Department to determine the value. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

h) Held in Trust (loaned to County by non-County entity (grant funded, state or federal))

Assets held by the County on behalf of a non-county entity and under the temporary control of the County are called assets in trust. This includes assets owned by the state of Texas or federal government that have been loaned to the County or assets purchased with federal or state grant funds in which the asset remains the property of the granting agency. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

i) Purchased with Discretionary Funds

Several elected and appointed officials have statutory authority over the expenditure of certain discretionary funds. Examples of these types of funds include commissary funds and federal and state forfeiture funds. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

j) Software Tracking

Dallas County Purchasing Department does not inventory computer software as part of this policy. The Dallas County Information Technology (DCIT) Department maintains licensing information pertaining to software purchases made through DCIT for departments/offices to

ensure compliance with commercial license requirements as well as Dallas County software use policies. Departments/offices should contact DCIT regarding software license tracking.

k) Warranty

Warranty information is often delivered with the asset when it is received at the department/office and it is recommended that the department/office maintain the warranty information in department/office files. If equipment malfunctions and before any equipment repair is initiated, the department/office shall research their acquisition records and warranty files to determine whether the equipment is under warranty. If it is determined that the malfunctioning equipment is defective and needs to be returned, the department/office shall contact the Purchasing Department to reflect the return of the asset so that it no longer appears in the department/office inventory records. In addition, the department/office should contact the Purchasing Department when the replacement asset is received and accepted for tagging and reporting.

l) Trade-In

For assets that are used for trade-in, the department/office shall contact the Purchasing Department to coordinate and update the inventory records. It is crucial that this happen before the trade-in so that the inventory records may be adjusted and reconciled. The department/office shall provide the asset number, description, tag number, unit number, trade-in amount, and when the unit was transferred. Additionally, when the trade-in is for computer equipment, the department/office shall contact DCIT.

Advantages of a trade-in are reduced administrative overhead, storage, and handling costs for disposal of assets. It is very beneficial to the County that this portion of the purchasing process is utilized wherever practical. Departments/offices participating in this process shall assist in:

- Identifying the asset scheduled for trade-in during the procurement process;
- Securing the asset scheduled for trade-in; and
- Making the asset available to contractor.

m) Damaged/Replaced

The department/office shall contact the Dallas County Risk Manager in the event an asset has been damaged to determine whether the asset qualifies for reimbursement under Dallas County's self-insurance or conventional insurance programs. Additionally, claims may be filed for this purpose. The department/office shall provide a copy of the filed claim and information regarding the replacement asset or the damaged asset to the Purchasing Department Fixed Asset Specialist for tagging and reporting.

n) Vandalized

The department/office shall contact the Dallas County Sheriff's Office and file a report documenting the vandalized asset. The department/office shall send copies of the report to the Purchasing Department and County Auditor's Office.

o) Stolen

The department/office shall report stolen assets from their department/office immediately to the Dallas County Sheriff's Office and shall complete a Dallas County Missing or Stolen Asset Incident Report. The department/office shall send a copy to the Purchasing Department and County Auditor's Office. Generally, a replacement should not be requested until after 90 days to allow for asset recovery. The department/office shall notify the Purchasing Department if the asset is recovered so that the inventory records may be updated.

p) Missing

The department/office shall complete a Dallas County Missing or Stolen Asset Incident Report (Attachment 3) and send a copy to the Purchasing Department and the Auditor's Office. Assets identified as missing shall not be removed from the inventory records until a thorough search is completed. The department/office is required to make a thorough and adequate search for the missing asset and document steps taken to locate the asset.

q) Cannibalization

When the asset is transferred for disposal, the department/office shall indicate in the remarks column of the Dallas County Inventory Form (Attachment 2) identify an asset that was cannibalized and the component(s) removed. This action will aid in determining the condition of the asset when it is sold at auction or in determining whether or not it can be removed from the inventory.

The Purchasing Department will update the inventory records to reflect the cannibalization identified on the Dallas County Inventory Form and if provided, shall document the asset that is to receive the cannibalized part(s).

r) Vehicle Title and License

The County Fleet Maintenance accepts vehicles purchased by Dallas County. The original title for vehicles is retained by Fleet Maintenance. Fleet Maintenance prepares the forms required by the Vehicle and License section of the County Tax Assessor/Collector's Office or other agencies, and applies for exempt license plates. Upon disposal of vehicles and titled equipment, the Fleet Maintenance representative signs the original titles. The department/office coordinates with Fleet Maintenance for the transfer of vehicles through the Purchasing Department as part of the disposal process.

s) Reuse

Department/offices may request a transfer of surplus assets located in another department/office. Assets such as office furniture and equipment are occasionally available. Department/offices that are interested in leveraging budget funds by receiving existing assets from other departments/offices shall contact the Purchasing Department to inquire whether surplus assets are available and to coordinate transfer.

t) Inventory Exercise

An inventory exercise is conducted at a minimum once each year. The Purchasing Department will send representatives to each department/office worksite and attempt to locate the assets, reconcile the findings to the inventory records for that department/office, and evaluate differences with the department/office. Each department/office shall designate an employee to assist with the process of determining the location of assets and providing information regarding asset additions, deletions, corrections, and/or additional comments. The department/office inventory records are reconciled and exceptions identified. A report is provided to the Dallas County Auditor's Office on July 1st each year.

u) Disposal

By state law only the Purchasing Agent, upon approval of Commissioners Court can dispose of County assets subject to this policy. A department/office that no longer uses an asset because duties, workloads, or personnel changes have occurred or the condition of an asset deteriorates and it becomes unusable, the department/office shall contact the Purchasing Department to coordinate the disposal of assets and/or furniture. In addition, the Purchasing Agent is responsible for identifying and disposing assets that are declared "surplus" or "salvage." The Purchasing Department supervises a variety of actions including: competitive bid, trade-in, auction, donation, or recycling. The Purchasing Agent shall determine appropriate disposal method and take action based upon recommendation by the department/office and upon approval granted by the Commissioners Court.

To begin the process of disposal, the department/office requests a transfer of the asset out of the department/office inventory records with use of the Dallas County Inventory Form. The department/office shall note the condition of the equipment (Good, Fair, Poor) and provide specific descriptive information in the "Remarks" column e.g. Typewriter, Electric - works but does not backspace properly.

Once the Inventory Form is completed, the next step is to contact the Purchasing Department. Assets are not transferred without a completed Inventory Form. The department/office shall not dispose of assets by other means. Large assets such as vehicles, road machinery, and furniture are to remain with the department/office until a disposition method is determined. Department/offices are asked to provide the Purchasing Department a plan for addressing the timelines and costs associated with the handling, moving, and storing of assets scheduled for disposal.

Generally computer hardware deemed as surplus under this policy is used as trade-in during the purchase process. DCIT shall notify the Purchasing Department upon removing computer hardware from service and provide the tag number, removal date, location, make and model.

In examining assets and/or furniture for disposal the Purchasing Agent shall use the following definitions:

Salvage asset - Asset, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended.

Surplus asset - Asset that:

- (A) is not salvage asset or items routinely discarded as waste;
- (B) is not currently needed by County;
- (C) is not required for County's foreseeable needs; and
- (D) possesses some usefulness for the purpose for which it was intended.

In disposing of all assets the Purchasing Agent, with approval by Commissioners Court, may:

- Sell the surplus or salvage asset by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the County;
- Offer the asset as a trade-in during the purchase process;
- Donate the asset to a civic or charitable organization located in the County; or
- Order the asset to be destroyed or otherwise disposed if the Purchasing Agent undertakes to dispose of the asset and is unable to do so because no bids are received.

v) Recording

There are two methods by which the Purchasing Department records assets:

- 1) Entry of received assets purchased with a Purchase Order; or
- 2) Entry of received assets resulting from forfeiture proceedings, use of commissary funds, discovery during audit, or donations to Dallas County.

Note: Anytime an asset is found that has not been tagged, the Purchasing Department should be notified to coordinate tagging and reporting.

w) Tagging

Upon receiving notification from the department/office the Purchasing Department shall tag the asset. Additionally, anytime an asset is found that has not been properly tagged, the Purchasing Department should be notified to coordinate tagging and reporting.

All assets shall be identified with a “Tag” with an asset number assigned. It may be a sequential, consecutive number. Asset tagging is accomplished by the Purchasing Department or those designated by the Purchasing Agent. When an asset is purchased with a Purchase Order, the receipt copy of the Purchasing Order is forwarded to the department/office by the Purchasing Department.

Consistent tagging practices ensure efficiency during the tagging process as well as subsequent inventory. When practical, asset tags are placed adjacent to the equipment manufacturer’s I.D. plate. If there is not sufficient space or the surface is not appropriate, the tag may be placed away from heavy exposure, wear areas, or at a place which does not detract from the asset’s appearance. Additionally, the asset tag shall be affixed so that it can easily located without moving or dismantling and it can be easily located during inventory exercises. The department/office shall notify the Purchasing Department when an asset is received for tagging and reporting.

Asset Tag:

The Asset Tag is an adhesive label used to identify County assets. The types of tags are:

- Bar Code Tag - Numerically controlled labels for controlled or fixed assets.
- Computer Tag - Used for computers/peripheral and other technology equipment within communication closets throughout County buildings to include but, not limited to network routers and network switches. DCIT shall ensure tags are affixed to these assets and provide the Purchasing Department a list that includes information regarding the tag number, location, and date received, and model number. Assets such as firearms are tagged by proxy referencing manufacturer’s serial number in lieu of a controlled/fixed asset tag.

Note: Anytime an asset is found that has not been tagged, the Purchasing Department should be notified to coordinate tagging and reporting.

x) Recycling

Waste assets and some salvage assets may be of greater value to the County when sold for materials or scrap rather than being disposed of as waste. The Purchasing Department shall coordinate recycling of assets with departments/offices.

y) Destruction

As per the Texas Local Government Code, the Commissioners Court may order the property to be destroyed as worthless if it cannot sell the property. When this situation occurs, the Purchasing Department compiles a list of assets for destruction and presents the list to Commissioners Court for consideration and action. Generally, this action is taken upon extensive efforts to dispose of the assets by sale, donation, or recycling. Upon Court approval, the Purchasing Department shall coordinate with the department/office destroy and dispose of the asset. The Purchasing Department shall update the inventory records to reflect the removal and destruction.

SECTION 19

PROCUREMENT AND TRAVEL CARD POLICY

1. Overview

In accordance with Texas Local Government Code §262.0115(d) and §262.011(l), the county Purchasing Agent may have assistants to aid in the performance of the Agent's duties. A person who is authorized by the county Purchasing Agent to use a county Purchasing Card while making a county purchase is considered an assistant of the county Purchasing Agent to the extent the person complies with the rules and procedures prescribed for the use of county Purchasing Cards as promulgated by the county Purchasing Agent and adopted by the Dallas County Commissioners Court.

Dallas County provides the procurement card (Purchasing Card) in order to provide immediate access to goods and/or services, which can dramatically shorten the process time necessary in the traditional requisition process. Those individuals who have been issued Purchasing Cards (Purchasing Cardholders) may initiate a transaction within the limits of this procedure and receive goods. The Purchasing Card should not be used to circumvent any state or county laws, rules, regulations, policies or procedures.

Therefore, the Purchasing Agent has designated a Purchasing Card Program Specialist as the Dallas County's Coordinator for the PCS program and has the sole discretion to determine the assignment, usage and control of the Purchasing Cards. The Purchasing Card Program Specialist shall also maintain all records of Purchasing Card requests, dollar limitations, Purchasing Cardholder transfers and any lost/stolen/destroyed Purchasing Card information.

1.1 Key Terms

Reviewer/Approver - The County personnel designated by the Department Head/Elected Official who reviews and approves a Purchasing Card transaction and verifies the required documentation.

Purchasing Cardholder – Dallas County personnel authorized to make purchases using the Purchasing Card in accordance with the procedures as set out in the Purchasing Manual.

Purchasing Card Program Specialist – Located in the County Purchasing Department and is responsible for the overall administration of the Purchase Card Program, which includes but is not limited to: processing Purchasing Cardholder applications and agreements, issuing Purchasing Cards, providing training to Purchasing Cardholders, assisting Purchasing Cardholders with inquiries, monitoring Purchasing Card usage, and revoking Purchasing Cardholder privileges.

Single Purchase Limit – A dollar amount placed on Purchasing Cards as established by the Purchasing Agent and identified in the Purchasing Manual.

Statement of Account – A monthly summary of all transactions processed by the bank for the Purchasing Card.

Expense Report – An online report provided by the bank detailing Purchasing Cardholder transactions.

Purchasing Card Transaction Log – A manual log of all transactions for a Purchasing Cardholder.

Merchant Category Code (MCC) – A specific numeric code applicable to a good, commodity, or service.

2. Receiving a Purchasing Card

Only Department Heads/Elected Officials may propose personnel to be Purchasing Cardholders. To receive a Purchasing Card the proposed applicant must agree to the following minimum requirements:

2.1 Purchasing Cardholder Eligibility

Prior to receiving a Purchasing Card, the applicant must:

- Provide evidence of employment by Dallas County;
- Obtain approval from the Department Head/Elected Official;
- Identify a Reviewer/Approver (other than the Purchasing Cardholder);
- Complete a signed Purchasing Cardholder Application;
- Complete a signed Purchasing Cardholder Agreement;
- Attend training on Purchasing Card Guidelines; and
- Agree that the Purchasing Agent may cancel the Purchasing Card privileges at any time without cause.

2.2 Purchasing Cardholder Liability

The Purchasing Card is a corporate charge card, which will not affect the Purchasing Cardholder's personal credit; however, it is the Purchasing Cardholder's responsibility to ensure that the Purchasing Card is used within the Purchasing Guidelines as well as those policies and procedures relating to the expenditure of County funds. Failure to comply with the guidelines may result in permanent revocation of the Purchasing Card privileges, and notification of the situation to the Department Head/Elected Official. Further disciplinary action may include termination of employment and/or holding the Purchasing Cardholder personally liable for the transactions.

3. Authorized Purchasing Card Use

The Purchasing Card has the Purchasing Cardholder name embossed on it and shall be used only by the Purchasing Cardholder. No other person is authorized to use the Purchasing Card. The Purchasing Cardholder may make transactions on behalf of their department. Purchases with the Purchasing Card will be allowed provided the Purchasing Cardholder can meet the following general guidelines:

Transaction Limits: The total value of a transaction (including freight) shall not exceed the County's single purchase limit, currently \$500.00. This limit must be strictly adhered to. A cardholder shall not make component, separate, sequential and/or split purchase of goods and/or services that in a normal purchase practice would be purchased in one purchase. In no event may the purchase limit of a single transaction exceed \$500.00 including freight. If extenuating circumstances occur, the Purchasing Agent or Purchasing Card Program Specialist must be

consulted immediately for guidance. Extenuating circumstances include, but are not limited to emergency/life safety matters.

Monthly Limits: The Department Head/Elected Official or individual with budgetary responsibility for the accounts will determine the monthly purchase limit (which is not to exceed \$5,000.00) for the Purchasing Cardholder. The Department Head/Elected Official may request any monthly purchase limit below \$5,000.00. If no limit is selected, the limit will default to \$5,000.00 or an amount set by the Purchasing Card Program Specialist. The monthly purchase limit as noted on the Purchasing Card Application Form should be carefully decided according to the funding source or contract associated with the Purchasing Card.

A requisition capturing the department accounting code is required to encumber funding per card. A Purchase Order (PO) will be issued by the Purchasing Department applicable to each card. The card will be pre-loaded up to \$5,000 (Monthly). After each use of the card, the card's balance will reduce until it expensed the total amount. The card will automatically lock and will be unable to be used until the cardholder submits a new requisition and Purchase Order is issued.

All items purchased shall be available immediately at time of purchase with no back ordering allowed.

The Purchasing Cardholder, Reviewer/Approver and Department Heads/Elected Officials must agree not to purchase from restricted businesses and/or commodities.

The county is tax exempt; thus, the Purchasing Cardholder shall inform the vendor that the purchase of goods and services are tax-exempt.

4. Purchase of Travel Services

Dallas County provides the procurement card specifically designed for the purchase of travel services (hereinafter "Travel Card"). The purpose of the Travel Card is to allow authorized employees to purchase commodities and services (that are restricted under the Purchasing Card) when traveling on official County business.

The Department Head/Elected Official must approve the application for a Travel Card. An approved Purchasing Cardholder Application submitted to the Purchasing Card Specialist is used for this purpose. Please indicate your desire to purchase these services on the Purchasing Card Application. Once approved, a Travel Card will be issued.

Any purchase of travel services made using the Travel Card must be in accordance with this policy, County Accounting Procedures Manual, Travel Guidelines, and Policies and Procedures. Please contact the Dallas County Auditor for the required forms. All other Purchasing Card requirements and approvals apply. A Commissioners Court briefing is required before the travel action(s) are arranged.

5. Purchase of Contracted Goods and Services

The Purchasing Card may be used to purchase goods and services that are authorized under existing agreements to expedite the ordering and payment processes. Please contact the Purchasing Card Specialist for additional information.

6. Unauthorized Purchasing Card Use

The Purchasing Card shall not be used for the items shown in the Purchasing Card Restrictions, of this Purchasing and Travel Card Policy.

Department Heads/Elected Officials may coordinate with the Purchasing Agent or Purchasing Card Program Specialist to enact a more restrictive policy regarding usage of Purchasing Cards in their respective department.

Important: A Purchasing Cardholder who makes unauthorized purchases, carelessly uses the Purchasing Card or fails to turn in the appropriate documentation may be liable (up to and including payroll deduction) for the total dollar amount of the unauthorized purchases, plus any administrative fee charged by the bank in connection with the misuse. Additionally, failure to comply with these guidelines may result in permanent revocation of the Purchase/Travel Card privileges, and notification of the situation to the Department Head/Elected Official. Further disciplinary action may include termination of employment and/or holding the Purchasing Cardholder personally liable for the transactions.

7. Making a Purchase

Purchasing procedures permit a purchase of goods or services if their value is \$500.00 or less. It is the policy to seek competition when possible, use existing contracts and seek the lowest prices within the parameter of quality and delivery. Accordingly, whenever making a Purchasing Card purchase, the Purchasing Cardholder will check sources of supply as reasonable to the situation to assure the best price and delivery. The Purchasing Department has established price contracts and vendor lists to identify suppliers.

Purchasing Cardholders will perform the following when making a purchase:

- Review M/WBE databases to see if a M/WBE supplies that particular good or service. The M/WBE databases can be obtained from the M/WBE Program Office;
- Check the suppliers list for all non-emergency purchases for vendors and prices already established. If not, solicit a number of sources as reasonable to the situation. If vendors furnish standing price quotations or catalog prices on a recurring basis, check that the price listed is current;
- Select a vendor based on vendor confirmation that the good or service is available, meets the specification and delivery requirements, etc., and perform the following;
- Confirm that the vendor agrees to accept the Dallas County Purchasing Card; and
- Direct the vendor to include the following information on the shipping label and packing list:
 - ✓ Purchasing Cardholder's name and telephone number;
 - ✓ Complete delivery address;
 - ✓ The words "Purchasing Card Purchase"; and

- ✓ The vendor's order number.

Important: Delivery should be coordinated by the Purchasing Cardholder ordering the merchandise to ensure that the documents necessary for the record keeping are readily available to the Purchasing Cardholder.

8. Purchasing Cardholder Record Keeping

Whenever a Purchasing Card purchase is made, documentation shall be retained as proof of the purchase. Such documentation will be used to verify the purchases listed on the Purchasing Cardholder's Expense Report of account and must contain specific information for each item purchased.

When the purchase is made over the counter, the Purchasing Cardholder shall retain the invoice and original "customer copy" of the charge receipt. Before signing this slip, the Purchasing Cardholder is responsible for making sure the vendor lists the quantity, fully describes the item(s) on the charge slip and charges no sales tax. The transaction's details should be added to the Purchasing Cardholder's "Purchasing Card Log" (See Appendix J).

A lost purchase receipt must be replaced by a duplicate/copy receipt from the vendor.

9. Review and Reconciliation of Expense Report

- 9.1 Purchasing Cardholder Review and Reconciliation of Expense Report On the first business day of each workweek, the Purchasing Cardholder shall download from the bank the list of Purchasing Cardholder's transaction(s) from the previous week (Expense Report). The Purchasing Cardholder shall check each transaction listed against their Purchasing Card Log (Attachment III), receipts and any shipping documents to verify charges listed on the Expense Report.

The original sales documents (packing slip, invoice, cash register tape and credit Purchasing Card slips, etc.) for all items listed on the Expense Report must be neatly attached, in purchasing sequence, to the statement. This attachment is critical to enable audit substantiation. If this routine is not adhered to, the Purchasing Card will be revoked. The careful matching of complete support documents to the Purchasing Card Log and then to the statement is vital to the successful use of the Purchasing Card. After this review, the Purchasing Cardholder shall sign the Expense Report, and present the Expense Report to their Reviewer/Approver for approval and signature. Each Department Head/Elected Official may designate one or more Department Reviewer/Approvers for their Purchasing Cardholders.

The Expense Report is used for transaction verification and updates (account codes, descriptions or other pertinent information) necessary to approve the payment. A completed Expense Report, and supporting documentation, will be submitted by the Purchasing Cardholder to the Reviewer/Approver, then to the Purchasing Department for review and compliance. The Purchasing Department will submit a batch expense report to the Auditor's Office for payment on a monthly basis.

9.2 Reviewer/Approver Review and Reconciliation of Expense Report The Reviewer/Approver shall check the Expense Report and Purchasing Card Transaction Log and confirm with the Purchasing Cardholder the following items as a minimum:

- Receipts exist for each purchase;
- The goods were received or the services performed;
- Purchases are for official County business;
- The Purchasing Cardholder has complied with applicable procedures;
- Reviewing vendor receipts attached to the Expense Report for inappropriate purchases or uses of the Purchasing Card and to ensure that tax has not been charged;
- Approving reconciliation of charges to Expense Report;
- Resolving disputes with the vendor or bank not resolved by the Purchasing Cardholder; and
- The approval from Reviewer/Approver indicates the authorized transactions were made in accordance with the applicable policies and procedures and are submitted to the County Auditor for payment.

9.3 Approved Expense Reports

The Purchasing Cardholder shall review the Expense Report and secure the Reviewer/Approver's online approval within two (2) working days of receipt. An approved Expense Report and appropriate documents shall be forwarded immediately to the County Purchasing Department for verification, compliance and vendor information. Each department will be responsible for keeping copies of all Purchasing Card related information forwarded to the Purchasing Department. The Purchasing Department will submit a monthly expense report batch to the Auditor's Office for payment on a monthly basis.

9.4 Delinquent or Unapproved Expense Reports

Failure to process the required documentation for Purchasing Card transactions, including the Expense Report at the prescribed date and time, may result in revocation the Purchasing Card privileges.

10. Expense Reports

The Purchasing Cardholder will print the Expense Report listing all transactions encumbered by the Purchasing Cardholder. The Expense Report will allow the Reviewer/Approver to track the Purchasing Cardholder's activities and act as a checklist for the Department Head/Elected Official to anticipate which purchases are due from the Purchasing Cardholders. Purchasing Cardholders and Reviewers/Approvers are expected to promptly review and reconcile their account summaries to the Expense Reports and forward them to the Auditor's Office for payment.

If an item is not satisfactory, received damaged and/or defective, duplicate order, etc., the Purchasing Cardholder should contact the vendor to explain the problem and inquire about return policies. If items purchased by the use of the Purchasing Card are found to be unacceptable, the Purchasing Cardholder is responsible for obtaining replacement or correction of the item as soon as possible. If the vendor has not replaced or corrected the item by the agreed date, then the purchase of that item may be considered in dispute.

If the Purchasing Cardholder is disputing a charge, they shall complete a Dispute Form (See Attachment VI) within one day of the discovery and forward it with the transaction documentation to the Purchasing Card Program Specialist. The Purchasing Card Program

Specialist will contact the bank and the Auditor's Office regarding the dispute of the charge. If an item has been returned and a credit voucher received, the Purchasing Cardholder shall verify that the credit is posted on the online Expense Report. If purchased items or credits are not listed on the online Expense Report, the Purchasing Cardholder shall retain the appropriate transaction documentation until the next online Expense Report. If the purchase or credit does not appear on the Expense Report within 60 days after the date of purchase, the Purchasing Cardholder shall notify the Purchasing Card Program Specialist for assistance.

11. Purchasing Card Security

The Purchasing Cardholder is responsible for safeguarding the Purchasing Card and account number to the same degree that a Purchasing Cardholder safeguards their personal credit information. The Purchasing Cardholder must not allow anyone to use the Purchasing Card. Any violation will result in the Purchasing Card being withdrawn and additional disciplinary action may be taken.

If the Purchasing Card is lost or stolen, the Purchasing Cardholder will immediately notify the Purchasing Card Program Specialist and the bank at 1-800-XXX-XXXX. Representatives are available 24 hours a day.

A new Purchasing Card may be issued by the bank and Purchasing Card Program Specialist after the reported loss or theft. A Purchasing Card that is subsequently found by the Purchasing Cardholder after being reported lost/stolen shall be reported and returned to the Purchasing Card Program Specialist.

12. Purchasing Cardholder Separation

Before separating from Dallas County employment, the Purchasing Cardholder must surrender the Purchasing Card and an up-to-date Purchasing Card Transaction Log and/or Expense Report to their Department Head/Elected Official. The Purchasing Cardholder must discontinue making purchases using the Purchasing Card no later than 15 days before separating from County employment. The Department Head/Elected Official shall notify the Purchasing Card Program Specialist for destruction of Purchasing Card. If the employee is terminated for any reason, the Department/Office shall notify the Purchasing Card Program Specialist in order to cancel the card and reconcile pending report(s).

Before transferring to another department in Dallas County, the Purchasing Cardholder must surrender the Purchasing Card and an up-to-date Purchasing Card Transaction Log and/or Expense Report to their Department Head/Elected Official. The Purchasing Cardholder must discontinue making purchases using the Purchasing Card no later than fifteen (15) days before transferring to another department within the County.

13. Review and Internal Audit

The Dallas County Purchasing Card program relies on both internal management controls and management reports designed to ensure the proper use. The Purchasing Department and Auditor's Office will periodically review and perform an internal audit on Purchasing Card use for compliance with County policies and procedures and state law. The purpose of these reviews

and internal audits will be to ensure that the Purchasing Cardholders are adhering to these Policies. Audit steps may include a review of the following:

Transactions to ensure the Purchasing Card is being used for authorized purchases related to County business;

Transactions designated as travel related expenses;

Documentation (receipts, packing slips, pricing, etc.) to support the Purchasing Card transactions;

- Purchasing Cardholder account reconciliation (to be performed between the time goods received and the charges are reported on the Expense Report).

14. Termination of Purchasing Card Privileges

The County Purchasing Agent may cancel a Purchasing Card at any time and without cause. The Purchasing Card Program Specialist is required to close an account if a Purchasing Cardholder: (a) transfers to a different department, (b) moves to a new job in which a Purchasing Card is not required; (c) terminates employment or (d) for any of the following reasons:

- The Purchasing Card is used for personal or unauthorized purposes.
- The Purchasing Card is not used during a period of three (3) consecutive months.
- The Purchasing Card is used to purchase alcoholic beverages or any substance, material, or service that violates Dallas County policy, or any other applicable law or regulation.
- The Purchasing Cardholder splits a purchase to circumvent the limitations of the Purchasing Card.
- The Purchasing Cardholder fails to maintain accurate books and records for each transaction, including, but not limited to, processing numerous Certificates of Authenticity forms.
- The Purchasing Card Expense Report is not submitted to the County Auditor for payment in the scheduled set date and time.

15. Purchasing Cardholder Responsibilities

The Purchasing Cardholder must adhere and agree to the following:

The Purchase Card is to be used for County Business ONLY; personal charges shall not be made on the purchasing card as this constitutes private use of public funds. Any personal charges on the card will result in disciplinary action, up to and including termination of employment.

- Keep the Purchasing Card in their possession, not allow anyone else to use the Purchasing Card issued in their name.
- Ensure the Purchasing Card is used in accordance with policies and procedures for legitimate Dallas County business purposes only.
- Maintain the Purchasing Card data in a secure location at all times.
- Adhere to the purchase limits and restrictions of the Purchasing Card and ensure the total transaction amount of any single transaction does not exceed \$500.00 including freight.

- Complete the Purchasing Card Transaction Log and Expense Report itemizing commodities and services.
- Obtain all sales slips, register receipts and Purchasing Card slips to Purchasing Card Transaction Log and Expense Report and provide them to the Reviewer/Approver for approval and allocation of transactions.
- Notify Reviewer/Approver if the accounting code should be changed.
- Attempt to resolve disputes or billing errors directly with the vendor and notify the bank and Purchasing Card Program Specialist, if the dispute or billing error is not satisfactorily resolved.
- Ensure that an appropriate credit for the reported disputed item or billing error appears on a subsequent bank billing statement.
- Ensure that tax has not been charged.
- Ensure credits must be placed back on the Purchasing Card that originally made the purchase. Cash payments will not be accepted as a credit payment.
- Report a lost or stolen Purchasing Card to the bank, Purchasing Card Program Specialist, and Auditor's Office immediately.
- Notify Reviewer/Approver of a lost or stolen Purchasing Card at the first opportunity during normal business hours.
- Return the Purchasing Card to the Purchasing Card Program Specialist prior to terminating employment with Dallas County or transferring between departments.
- Contact the Department Reviewer/Approver and Purchasing Card Program Specialist if a vendor does not accept the Purchasing Card.
- Report emergency transaction needs to the Reviewer/Approver during normal business hours.
- Strive to meet or exceed Dallas County's goal with M/WBEs.
- Retain departmental copies of all Purchasing Card transactions, receipts, payments, logs and records pertaining to the Purchasing Card issued for the department.
- Validate that the merchandise is received.

16. Department Reviewer/Approver Responsibilities

Each Department Head/Elected Official must designate one or more Reviewer/Approvers for their Purchasing Cardholders. The Reviewer/Approver is to receive training similar to that of the Purchasing Cardholder. Responsibilities include:

- Reviewing vendor receipts attached to the bank billing statement for inappropriate purchases or uses of the Purchasing Card and to ensure that tax have not been charged.
- Approving reconciliation of charges to bank billing statement.
- Resolving disputes with the vendor or bank not resolved by the Purchasing Cardholder.
- Notifying the Purchasing Card Program Specialist in writing within three (3) to five (5) business days of any unresolved disputes.
- Notifying the Purchasing Card Program Specialist of lost or stolen Purchasing Cards.
- Requesting the Purchasing Card Program Specialist cancel a Purchasing Card (e.g. terminated employees, employees transferring to other departments, and loss of Purchasing Card privileges) as approved by the Department Head/Elected Official.
- Collecting canceled Purchasing Cards and forwarding to the Purchasing Card Program Specialist.
- Assisting Purchasing Cardholder with declined and emergency transactions.

- Reporting misuse and abuse of the Purchasing Card.
- Review all bank statements for correctness and completeness and provide an approval signature.

17. Purchasing Card Program Specialist Responsibilities

The Purchasing Card Program Specialist is located in the Purchasing Department and is responsible for the following:

- Serves as the Dallas County's Purchasing Department liaison with the Bank.
- Processes the Purchasing Cardholder Application and Purchasing Cardholder Agreement.
- Coordinates Purchasing Cardholder Application financial information with the Auditor's Office.
- Submits a completed Purchasing Card Application to Bank and receive the Purchasing Card.
- Trains Reviewer/Approver before issuing Purchasing Cards to Purchasing Cardholders.
- Trains Purchasing Cardholders before releasing Purchasing Cards.
- Assists the Purchasing Cardholder and bank with disputed charges/discrepancies.
- Secure revoked, or cancelled Purchasing Cards and submit information to the bank.
- Report any lost or stolen Purchasing Cards to the bank.
- Monitor and assess Purchasing Card transactions for compliance with these Policies.
- Coordinates Purchasing Cardholder changes, i.e. updates to MCC's, threshold limits, etc.
- Maintains and updates Purchasing Card Guidelines.

18. County Auditor Responsibilities

The County Auditor's Office is responsible for the following:

- Receives and reviews the Expense Report and supporting documentation.
- Establishes and notifies Purchasing Cardholders of cut-off dates for approvals.
- Prepares documentation and payment to bank.

19. Purchasing Card Restrictions

Restricted Businesses

- × ATM's
- × Attorneys
- × Liquor Stores or Bars
- × Banks, Automated Tellers
- × Professional and Consultant/Contracted Service Providers
- × Temporary Labor Agencies
- × Travel Related Expenses (except with Travel Card)

- × Entertainment Providers
- × Rental Agencies: equipment, furniture, etc.

Restricted Commodities

- × Any single purchase exceeding \$500.00
- × Alcoholic beverages
- × Weapons, Firearms, Ammunition
- × Animals
- × Cash advances or Gift Purchasing Cards
- × Cellular/portable phone
- × Computer or telecommunication equipment
- × Consulting services
- × Controlled assets
- × Controlled prescription drugs
- × Cylinder gases, liquid nitrogen
- × Decorations
- × Entertainment
- × Hazardous chemicals or materials
- × Organization Memberships, Charitable and Social Services, Associations
Civic, Social, and Fraternal
- × Personal items
- × Purchases outside the USA
- × Purchases involving equipment trade-in
- × Radioactive materials
- × Scientific or medical equipment
- × Stereo systems
- × Hotels, Car Rentals(except with Travel Card)
- × Telephone services

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

PURCHASING CARD RESTRICTIONS

Restricted Businesses:

- × ATM's
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