

GUADALUPE COUNTY, TEXAS PURCHASING POLICIES

PURPOSE

The purpose of this policy is to establish guidelines and accountability for the expenditure of taxpayer funds used to procure goods and services by all County departments. The processes used to procure goods and services should always provide the best value for the County while providing open and fair competition for vendors.

These policies are approved by the Guadalupe County Commissioners Court. Therefore, appropriate revisions may be made, as necessary, to these policies by the discretion of the Commissioners Court.

This policy is for the use of Guadalupe County officials and employees and is designed to assist them in complying with the laws governing county purchasing procedures. This policy does not create any rights of individuals or entities enforceable against Guadalupe County.

GUADALUPE COUNTY PURCHASING – MISSION, VISION, AND GUIDING PRINCIPLES

Mission

Guadalupe County Purchasing provides departments with needed goods and services while maintaining ethical standards and adhering to applicable laws and statutes to ensure compliance and maximizing best value for taxpayer funds while serving the citizens of the County.

Vision

Guadalupe County Purchasing seeks to address County needs with prompt and efficient customer service, providing best value for each dollar with competition, and providing a fair opportunity for vendors with formal requests for bids, proposals, and qualifications.

Guiding Principles

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

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

Employees and officials shall avoid the appearance of impropriety and always act in the best interest of Guadalupe County. A conflict of interest exists in any relationship where the County's

best interest may be different from the employee's or official's and include an employee or official participating in any way in any procurement which:

- The employee/official or any member of their family has a financial interest pertaining to the purchase; or
- A business or organization in which the employee/official or any member of their family has a financial interest in the purchase; or
- Any other person, business, or organization with whom the employee/official or any member of their family is negotiating or has an arrangement concerning prospective employment and is involved in the procurement.

If conflicts of interest exist, the employee or official shall notify the Purchasing Agent in writing and remove themselves from the County procurement process.

Employees and officials shall not solicit or accept money, loans, gifts, favors, or anything of value from present or potential vendors that might influence or appear to influence a purchasing decision.

ROLES AND RESPONSIBILITIES – COUNTY DEPARTMENTS

The role of the County departments (which shall be inclusive to mean all elected officials, department heads, employees and volunteers) shall ensure that while procuring goods or services they get the best value, follow state purchasing law, and follow any applicable state or federal purchasing guidelines as applicable to the source or use of funds.

Compliance with the Law

All departments shall comply with state laws regarding procurement, including but not limited to the County Purchasing Act, and to all state and federal grant requirements.

Departments need to recognize that using purchasing strategies designed to avoid formal competitive bidding such as component purchases (purchasing in pieces rather than purchasing as a whole), separate purchases (purchasing goods in a series of separate purchases that normally would have been combined) and sequential purchases (purchases made over a period of time that would normally have been made as one purchase) violates State law.

Ethical Procurement

Purchasing shall be done using the highest ethical standards. Neither use of their position nor personal influence shall be used to secure special privileges, prices, or exemptions for themselves or others. Contracts should be awarded based on demonstrated competence and lowest cost to the County. If a conflict of interest exists, departments shall notify Purchasing of a

business or personal relationship with a prospective vendor in writing and remove themselves from the procurement process.

Purchasing for Grants

The department who was awarded the grant is responsible for adhering to all procurement guidelines, policies, and procedures in the application, assurances, award, and documentation of the state or federal grant.

Departments must strictly adhere to all procurement requirements of federal grants, programs, or allocations noted in 2 CFR part 200. Where specific procurement direction is not provided for in 2 CFR part 200 or supplements, the department shall abide by the “common rule” which is published by each separate federal agency.

Departments must document that any person, vendor or its principals who are paid using a federal grant, program or allocation is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. The department shall “check debarment status on the web” by going to the federal website sam.gov.

To demonstrate compliance with grant procurement requirements and conditions, the department must document and keep records that provide evidence of compliance for all grant purchases.

Accounting for Controlled and Capital Assets

Departments shall work with Purchasing to facilitate the inventory of County controlled and capital assets and ensure that all assets are tagged with the County’s numbered ID tags.

Professional Services

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.

Departments shall purchase professional and personal services in accordance with law and any state or federal procurement guidelines, policies or procedures.

Sole-Source Purchasing

Items considered sole source include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts, components for equipment, and films, manuscripts or books. Such items may be purchased from a sole source without

competitive bidding only after the department and the Purchasing Agent's office certifies the existence of only one source to the Commissioners Court and enters a finding of such in the Courts minutes. (Local Government Code §262.024).

Just because a vendor states they are a "sole source" does not mean it is a true sole source. Some vendors may have a patent, but their product may be very similar to other available items. Letters of "sole source" are not sufficient as evidence.

Example 1: a manufacturer produces a rifle with certain components and provides a letter stating they are the only manufacturer of this package. Purchasing finds that other manufacturers produce rifles of similar style suppliers of optional accessories – this is not a sole source.

Example 2: the County Clerk finds an original bound record of historical County importance. This document is only available from one shop and is an original. Since the item is an original, and likely the only piece in existence, this would be considered a sole source.

PURCHASING AGENT

The Purchasing Agent will assist departments in the purchasing of goods and services in accordance with the bidding procedures and the needs of the County departments. The bidding procedures for goods and services for the County are set forth in the Texas Local Government Code Chapter 262 and Chapter 271.

Issue Purchase Orders

Purchasing will issue purchase orders (PO's) which will act as a requisition and encumber (hold) funds within a department's budget for that purchase.

Cooperative Purchasing Contracts and State Contracts

In meeting the competitive bidding requirements, the departments may make purchases through existing state contracts or other cooperative purchasing contracts. Purchasing will assist the departments in placing orders (to ensure compliance with each of the program's requirements) and will verify the order with the department prior to placing the order (to ensure the correct order and pricing).

Competitive Bidding

If a department decides that a competitive bid will best meet the required needs, then the department will provide technical specifications to ensure that the purchase meets their needs. Purchasing will incorporate the technical specifications with general terms and specifications to develop a complete bid package.

Purchasing Recommendations

Purchasing shall work with the department and make recommendations on contract awards to Commissioners Court for purchases supervised through the competitive purchasing process exceeding the limits.

Compliance

Purchasing, along with the Auditor's office, will periodically check departments to ensure that they are following State and Federal procurement guidelines, policies, and procedures of state and federal funds. Purchasing office shall work with departments to monitor vendor compliance with contract terms and conditions, quality of goods or services and timely renewal or re-bid.

VENDORS AND PROSPECTIVE SUPPLIERS

Guadalupe County does not have or keep an "approved vendor list" as it welcomes the opportunity to do business with all vendors. The County is interested in fostering participation by all businesses offering goods and services utilized by the County departments and offices. Each department has the responsibility of making the most economical acquisition of quality goods and services to ensure efficient operation.

- Request clarification, delineation, or explanation of a quote, bid, or proposal in writing to either Purchasing or to the individual specified in the solicitation document when competing for a procurement opportunity;
- Respond to County requests and solicitations with fair and competitive pricing; and
- Deliver commodities and services in a timely manner and in accordance with terms of the contract award.

Stages of Procurement

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

- *Planning and budgeting* - Planning is necessary for various efficiency reasons that impact commissioners court budgetary processes and operational programs. Good planning is necessary to consolidate purchases, to achieve economies of scale, and ensures that goods and services are delivered timely to meet operational needs.
- *Purchasing* - The process through which solicitations are issued, offers are made, contracts awarded, and goods or services received.

- *Contract administration* - The process of ensuring the terms of the purchase agreement are enforced, goods and services delivered satisfactory, and the bills are paid.

PURCHASING AUTHORITY AND GENERAL GUIDELINES

County Purchasing Act

Generally, in the absence of overriding federal law or grant regulations, the County Purchasing Act (Local Government Code, Chapter 262, Subchapter C) defines the purchasing laws for counties. General guidelines for purchasing and utilization of this manual are as follows:

Generally, competitive bidding is required on any purchase likely to equal or exceed the amount stated in LGC 262.

In lieu of the county issuing a competitive bid, state law allows for purchasing through existing contracts through state agencies and through cooperative purchasing agreements.

Professional and Personal Services – Professional and Personal Services are exempt from competitive bidding requirements. They can be obtained through Requests for Proposals or Requests for Qualifications.

Requisitions & Purchase Orders

A **requisition** is required for all purchases (Texas Local Government Code §113.901). The purpose of the requisition is twofold: (1) to inform Purchasing of the needs of the requesting department; and (2) to identify correctly and clearly the material requested and the funding codes (general ledger, or GL, codes) from which the payment will be made.

The **purchase order** encumbers, or holds, the budgeted funds ensuring funding availability when the invoice is received. Purchase orders are provided to the vendor when the order is placed.

Emergency Purchasing

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 residence; or (c) when made necessary by unforeseen damage to public property. (See Attachment “A” at the end of this document for specific purchasing procedures regarding emergency or disaster purchasing.)

PURCHASING PROCEDURES

Requisition Guidelines

Before submitting a requisition, the department should:

- seek pricing from various vendors; and
- verify that funds are available in their budget

If the amount is greater than the threshold state in LGC 262, or to be paid from a grant or federal funds, then the department will need to follow the County Purchasing Act, and either competitively bid the commodity or purchase it using a cooperative contract.

After this determination, the department's designated staff member should submit a requisition to Purchasing and provide any quotes obtained or the vendor's name, description of items to purchase, general ledger expense line, amount of purchase, and any other pertinent information.

Authorized employees may only get purchase orders for their department (departments will submit a list of approved employees and can update or change this list to meet their needs).

If there is insufficient funding in the expense line, a budget amendment or line transfer will need to be coordinated with the Auditor's Office prior to the issuance of a Purchase Order. Budget amendments are reviewed monthly by Commissioners Court and must be finalized by certain dates. It is the responsibility of the relevant department to ensure their budget amendments are listed.

A purchase order will be created once the requisition is approved. Purchasing will place orders with vendors and copy any responsible department personnel. Purchase orders must be requested and received by the department **before** any services are rendered or goods are ordered. It is important that the purchase order amount is correct. It is the responsibility of the department to see that all purchased items conform to the quantity, quality, and specifications of the order. If the order comes in as multiple shipments or multiple invoices, it is the responsibility of the department to note or document on the invoice that the purchase order is not complete.

If the goods or services are unacceptable or are not received, DO NOT SIGN THE INVOICE for approval for payment, until the defect has been corrected or goods/services have been received. Once payment has been made, the department has limited avenues to correct a problem.

If the amount of the original purchase needs to be increased (e.g. shipping is added to the purchase) or the vendor has changed, the department should inform the Auditor's office

promptly to let them, and Purchasing, know of this change. Notification is also requested if the amount of the purchase order substantially decreases (example: vendor only had ten sign posts and the purchase order was requested for fifty sign posts).

Items cannot be added to open purchase orders. This would be considered a separate purchase and a new requisition would be required for the new items.

COMPETITIVE BIDDING PROCEDURES

Invitation for Bid (IFB)

Local Government Code §262.023 sets limits for requirements of formal bids. Purchases of more than the set threshold stated in LGC 262 from one vendor must be made through formal, written, sealed, competitive bids unless exempt by state statute. Departments are prohibited from making “split purchases” to circumvent the formal bid requirement.

The user department shall be responsible for establishing specifications and providing a complete written set of the specifications along with a completed requisition. Specifications may be written on a technical or functional basis. The use of brand names in specifications is discouraged but may be used for comparison purposes only. When brand names must be used it will be stated “or approved equivalent”. When developing specifications, one should ensure that a fair competitive environment exists. Purchasing will finalize the specifications to ensure they are proper for inserting in the bid packet and will submit them to the user department for final approval. The procedure is jointly undertaken to establish a quality level of goods or services being procured.

Once bid specifications are approved by the user department, the advertisement and bid process begins. Purchasing will seek Commissioners Court approval for advertisement of the competitive bid, coordinate and operate the bidding system, and be responsible for adherence to any and all legal requirements of competitive bidding. The County has standard terms and conditions that are used for all the County’s formal bidding situations.

In addition to soliciting vendors through newspaper advertisements, County personnel will work to identify possible vendors with interest in submitting a bid. Pre-bid conferences may be used when it is anticipated that they will be useful in answering vendors’ questions and to ensure that the same information is distributed equally. It is of utmost importance that those who intend to bid understand the County’s needs. All material changes to bidding conditions or specifications (resulting from pre-bid conferences, vendor inquiries, and all other reasons) will be documented and issued in an addendum by Purchasing to all known bidders (i.e., all vendors who have requested a bid packet). All questions from vendors concerning the bid packet are to be directly addressed to Purchasing.

It will be Purchasing's responsibility to receive all bids and document such receipt on the date and time as advertised. Purchasing will conduct an initial bid tabulation then coordinate with the user department a time to evaluate the bids. The County will follow the practice of using a best value analysis for evaluating the lowest responsible bid unless the bids specifications dictate otherwise. Once an evaluation has been prepared, Purchasing and user department head will make a joint recommendation to the Commissioners Court for consideration and award.

Request for Proposal (RFP)

The request for proposals (RFP) is a process similar to the sealed bid procedure used for the procurement of goods and services that are highly specialized and technical in nature or when the end user does not have an exact solution or product decided upon. Important distinctions between a normal sealed bid and an RFP include:

- Unlike an IFB that stipulates the award of the contract to the "lowest and most responsible bidder," an RFP permits price and other factors to be considered, allowing a contract to be awarded to a vendor other than the one offering the lowest price.
- IFB's utilize detailed specifications about the nature of the goods and services required by the County. An RFP may specify only the function to be served by the goods and services, leaving the vendors to determine how to best achieve the desired function.
- State law requires that the RFP specify the relative importance of price and other evaluation factors. The user department and Purchasing may conduct discussions with vendors after the proposals close and are evaluated. The final terms of the contract may be negotiated after authorization by Commissioners Court.

Request for Qualifications (RFQ)

A request for qualifications (RFQ) is much like an RFP, however price is not a factor in evaluation. An RFQ is used to procure professional services. These services are characterized by their reliance on mental or intellectual skills, often accompanied by formal certification or licensing by a state or other regulatory agency. Examples of professional services include accounting, auditing, architecture, engineering, financial advisory services, law, laboratory services, consulting, medicine, and surveying, etc.

State law exempts the procurement of these services from competitive bidding requirements (Professional Service Acts, VCTS). Professional service consultants should be selected based on demonstrated competence and qualifications.

Any negotiated contract and fee structure document should be turned over to County legal counsel for review. Once approved by legal counsel, the contract should be placed on the agenda of the Commissioners Court for approval, acceptance and signing.

ATTACHMENT "A"

EMERGENCY PURCHASING PROCEDURES

The purpose of this section is to enable Guadalupe County to respond quickly in procuring materials and/or services when an emergency condition exists. In case of a disaster or an emergency, departments shall be authorized to purchase goods and services necessary to address the emergency.

NON-DISASTER – EMERGENCY

In the case of a non-disaster emergency, the department should call the Auditor's office on the next business day and the Auditor's office will (if funds are available) issue a purchase order after the fact. (Example: Building Maintenance Director needs to call in a plumber on a Sunday to repair a leaking pipe).

DECLARED OR UNDECLARED DISASTER – EMERGENCY

Purchasing Agent and Auditor's Office Operational

Purchases during a disaster, if possible, should follow existing purchasing procedures and should be categorically identified (example: Flood October 1998) by the department when requesting purchase orders. During a disaster, Purchasing and the Auditor's office will assist with procurement as needed by the department.

Purchasing Agent and Auditor's Office NOT Operational

Upon the event that Purchasing and the Auditor's office are not operational during a disaster, departments are authorized to establish their own purchase orders for items **necessary to address the emergency**. During this period, the department should assign a person to monitor and track all purchases made during the period.

Purchase order numbers assigned by a department should start with their department number, 2-digit fiscal year and be sequentially numbered (Example: Sheriff's office 560-09-100). Information accumulated by the department should include:

- Date of purchase,
- Internal assigned PO number,
- Vendor name,
- Description of services/items,
- Personnel responsible, and
- Amount.

Depending on the type of incident and whether it is a federally declared disaster, other information (such as time and geographic location where the services were performed or items utilized) may also need to be collected to qualify for state or federal reimbursement.

The above information must be sent to the Auditor's office as soon as it is operational.

Major Purchases

By Texas State Law, the County Judge is the Emergency Management Director for the County. Any major purchases that exceed a department's budget **must be approved by the County Judge**.

Purchases that exceed the competitive bid limit **must be approved by the County Judge**. Any request, that exceeds the competitive bid limit must be ratified and acknowledged by the Commissioners Court after the fact at the soonest practical Commissioners Court meeting. Exemption from competitive bidding only applies if:

- (1) a prompt purchase is required, due to public calamity, to meet a necessity of the citizens or preserve public property,
- (2) the purchase is necessary to preserve the public health or safety of county residents, or the purchase is required due to unforeseen damages to public property.