

SECTION IV

**PROCUREMENT
POLICIES AND PROCEDURES**

PROCUREMENT POLICIES & PROCEDURES

For all purchases, rentals or lease of goods, services, or construction, the following Purchase Requisition process will be observed regardless of the fund or funds from which the expenditure is being paid, including all related corporations.

A purchase order is required for every purchase made with City funds regardless of the dollar amount. However, there are **exceptions**: direct pay, reimbursement, etc. The total purchase includes shipping, fees and any other charges associated with the purchase. The information will be entered in the system through the requisition process.

A. Authorized List of Purchasers

A list, from each department, of those individuals who are authorized to make purchases and those that will enter requisitions, will be provided to the Purchasing Department. It is recommended that there are few designees per department authorized to make purchases. Prior to designating an individual as an authorized purchaser, each person will be required to attend training(s) and be well versed in the policies and procedures of purchasing. Only personnel on the list will be authorized to make purchases for the city.

Authorized purchasers can not make purchases using their own funds and request reimbursement without prior approval from the Purchasing Department or the department head due to tracking and sales tax.

Individuals authorized to enter requisitions shall keep their user ID and password information confidential and may not give this information to anyone or allow another person to use this information.

B. Approval of Expenditures

Each department budget is assigned to a department head and approved by the City Commission.

The department head will approve requisitions charged to the budget(s) assigned to them.

A department head may appoint alternate(s) for the purpose of approving requisitions in the department head's absence, subject to prior approval by the Mayor.

Individuals authorized to approve requisitions shall keep their user ID and password information confidential and may not give this information to anyone or allow another person to use this information.

C. Purchases of \$0.01 - \$2,999.99

1. Competitive quotes are not required although all departments are encouraged to compare prices and should always strive to obtain the best value.
2. A requisition will be submitted prior to making a purchase. If however a purchase is made prior to submitting a Requisition the items should be entered by 10:00 A.M. of the morning following the purchase. The requisition must include the person entering the requisition, the requestor, detailed description of each item, and number of units, appropriate general ledger account number, delivery/shipment location, shipping/delivery charges, delivery terms, the due date and the unit price for each line item. If funds are not available, contact your department head to complete a budget transfer.
3. The requisition shall be reviewed by the department head whose budget is being charged for approval and to verify the general ledger account number.
4. When making a purchase, it is the responsibility of the purchaser to advise the Supplier that the City is tax-exempt before the transaction is performed.
5. Purchasing will convert the requisition to a purchase order, which will encumber the funds.
6. Upon receipt of goods or service, the department head designee shall verify goods received with the packing slip and perform the receiving process in the system. Only entering exactly what has been received.
7. All invoices are to be sent directly to Accounts Payable from the vendor. When an authorized purchaser picks up an item at a store and receives an invoice, the purchaser shall write the requisition number or purchase order number on the invoice and send it to Accounts Payable.

Purchase orders will be printed for every purchase made and distributed to the departments by the Purchasing department.

8. Accounts payable will pay the invoice for all goods or services processed as received.

D. Bids/Quotes for purchases of \$3,000.00 - \$49,999.99

- a.) A procurement the department will handle: The City requires the authorized purchaser to contact three vendors for competitive quotes for each line item and scan each quote into the system when entering the requisition.
- b.) If the department wants Purchasing to handle the procurement: Email or fax a detailed description of the items(s), quantity and account number to the Purchasing office. Purchasing will contact three vendors for quotes and enter the requisition and quotes in the system.

- c.) Contact at least two HUBS' (Historically Underutilized Businesses) on a rotating basis.

A municipality in making an expenditure of more than \$3,000 but less than \$50,000.00, shall contact at least two disadvantaged businesses on a rotating basis, based on information provided by the Office of Small Business Assistance of the Texas Department of Commerce pursuant to Section 1.03 State Purchasing and General Service Act (Section 252.0215 Local Government Code) A list of HUB's is obtainable at the Texas Building and Procurement Commission's website, www.gsc.state.tx.us under the CMBL (Centralized Master Bidders List) or by contacting the Purchasing office. If the list fails to identify a disadvantaged business in the county of which the City is situated, the City is exempt from this section.

- d.) Written quote must be obtained and forwarded to Purchasing with the requisition number documented or electronically attached to the requisition in the purchasing software system.

- e.) For purchases where quotes are not solicited, enter one of the following descriptions in place of the quotes in the appropriate field on the Requisition:

- Contract – enter the Bid number
- Emergency – enter a description of the emergency
- Inter-local Agreement
- Professional, Personal, Planning Services
- Sole Source
- State Contract purchase

1. The requisition must include the person entering the requisition, the requestor, and a detailed description of each item, number of units, appropriate general ledger account number, delivery/shipment location, shipping/delivery charges, delivery terms, the due date and the unit price for each line item. If funds are not available, contact your department head to complete a budget transfer.
2. The requisition shall be reviewed by the department head whose budget is being charged for approval and to verify the general ledger account number.
3. For purchases of \$3000 or more the purchase requisition must be approved by the Purchasing Coordinator, and the Director of Finance before the purchase can be made.
4. Upon approval(s), the Purchasing Department will convert requisitions that have been entered and approved by 4:00 p.m. to a purchase order and encumber the funds. The purchase orders will print each morning in the Purchasing Department and distributed to the appropriate departments.
5. The authorized purchaser can then proceed with the order. The actual purchase order should be given to the Supplier, or at a minimum, the P.O. number needs to be given so all invoices and documentation relating to the purchase will reflect the purchase order

number. It is the responsibility of the purchaser to advise the Supplier that the City is tax-exempt before the transaction is performed.

6. Upon receipt of goods or services, the department designee shall verify goods received with the packing slip and perform the receiving process on the system. Only entering exactly what has been received.
7. Accounts payable will pay the invoice for all goods or services processed as received.

E. Purchases of \$50,000.00 or more

All purchases, rental or lease of goods, services or construction anticipated to be \$50,000.00 or more require bids or proposals as outlined in Section V Formal Sealed Bids and Proposals.

F. Emergencies

The definition of an Emergency purchase is a purchase that is required immediately to remedy a situation that endangers public safety, public health or a public calamity or unforeseen damages to public property.

If during non-business hours, such as weekends or holidays, an emergency arises that requires immediate purchase of items or services, the department may make such purchase not in accordance with the policies and procedures set forth in this document. However, the department **must**, during the next business day, enter the requisition to obtain a purchase order number for the emergency purchase. Lack of planning does NOT constitute an emergency.

1. The Department Head shall contact the Director of Finance or the Mayor.
2. The department designee shall enter a purchase requisition with the pertinent information, an adequate explanation of the reason for the emergency and the Department Head should contact Purchasing to process the Purchase Order.
3. Bidding requirements are waived on emergencies.

G. Purchases to be handled by the Purchasing Department

1. Computers and Related Items

Departments must contact the Purchasing department by email or fax for all purchases of computer equipment, software, related items and services. All requests must include a detailed description of the item(s), quantity and account number. The Purchasing department **will not** process any request without prior written authorization from the Information Technology (IT) Director.

The request will be reviewed by the Information Technology (IT) Director for comments and technical evaluation. IT will prepare comments and alternatives, if necessary. The

IT Director will review for compliance with the computer equipment standard policies and procedures and will prepare the technical specifications.

All requisitions for the purchase of computer related items must be reviewed and approved by the IT Director.

Once approved, the Purchasing Department will obtain bids, complete the purchase order and place the order with the vendor.

2. Lease and Maintenance Agreements

The City may execute, perform and make payments under a contract with any person for the purchase or other acquisition of any personal property or financing thereof in accordance with Section 271.005 of the Texas State Statutes.

The contract may be in the form of a lease, a lease with an option or options to purchase, and installment purchase, or any other form considered appropriate by the City. The debt may be payable from a pledge of all or any part of the revenue, funds, or taxes available to the governing body. In entering into the contract, a municipality must comply with the requirements of Chapter 252 pertaining to competitive bidding and competitive proposal requirements.

To determine the applicable bidding standards, Purchasing shall add the sum of all payments over the term of the total contract period and shall issue the purchase order for all lease and maintenance agreements.

3. State Contract Purchases

All items to be purchased on the state contract through the General Services Commission will be requested by completing a purchase requisition and obtaining department head approval.

The Purchasing Department will complete all state forms and the State Purchase Requisition and place the orders for state contract purchases. In some instances, the department will place the order and Purchasing will follow up with confirming paperwork, if the state allows.

H. Types of Contracts or Purchases

The purchase requisition process outlined will be followed by an authorized purchaser or the Purchasing Department for the following types of purchases.

1. Annual Contract Purchase

Annual Contracts will be utilized for materials, supplies, or services regularly needed for the City operation and will be competitively bid by the Purchasing Department.

As annual contracts are bid and awarded, Purchasing will provide each department with the contract information. Copies will need to be made in the department and distributed to the authorized purchasers.

2. Competitive Bidding

Competitive Bidding means letting all available Vendors or Contractors compete with each other to provide goods and/or services. Competitive bidding helps insure that public monies are spent properly and legally, that the best possible value is received for the money, and that those qualified and responsible vendors who desire to do business with the City have a fair and equal opportunity to do so. The use of standard bidding procedures gives the public assurance that their monies are properly safeguarded.

3. Cooperative Purchasing Agreements

The Inter-local Cooperation Act. Government Code Section 791 allows local governments to contract with and between each other to provide governmental functions and services and to join together in contracting with others to provide goods and services.

Local Government Code Chapter 271 allows local governments to purchase goods on the State's purchasing contracts and allows the State to solicit bids on the local government's behalf.

The City presently has inter-local contracts with the State through the General Services Commission and Houston-Galveston Area Council (HGAC).

4. Insurance Broker

The City may select an insurance broker on a fee basis as the City's broker of record to obtain insurance proposals and coverage's for all the City's liabilities, provided the broker of record may not be remunerated by any other source. This should bar the broker from any commissions or insurance purchased by the City or from placement fees from any insurance company insuring the City.

5. Professional, Personal and Planning Services

Professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Purchasing department is available to consult with departments regarding the preparation of information; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

Texas Government Code, Chapter 2254, Subchapter A, Professional Services, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:

- (1.) Of demonstrated competence and qualifications to perform the services;
- (2.) For a fair and reasonable price;
- (3.) Fees are allowed;
- (4.) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
- (5.) May not exceed any maximum provided by law.

Selection and award of those services need not be made on the basis of competitive bids, but shall be awarded on the basis of demonstrated competence and qualifications for the services performed.

Contracts shall be awarded for those asking fair reasonable prices, as long as the fees are not higher than published recommended practices and fees of the various associations and do not exceed the maximum provided by the State Law (Government Code Chapter 2254, Professional Services Procurement Act).

Professional Services for the purposes of Government Code Chapter 2254 are defined as those "services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse."

The City shall use a two-step selection process. First, the entity shall select an individual or firm capable of performing the service, on the basis of demonstrated competence and qualifications. The City shall then enter into negotiations on the contract at a fair and reasonable price.

If the City is unable to negotiate a satisfactory contract with the most highly qualified individual or firm, it shall formally end negotiations and proceed with the next most highly qualified until a contract has been made. A contract made in violation of this act is void as against public policy.

6. Sole Source Purchases

Because of the existence of patents, copyrights, secret processes or natural monopolies, gas/water/utility services and the purchase of comparative replacement parts or components for equipment, requirements of the City may be submitted from one source.

Sole sources are acceptable in accordance with Local Government Code Section 252.022 as follows:

A purchase of items that are available from only one source because of patents, copyrights, secret processes or natural monopolies; firms, manuscripts or books; gas, water and other utility services; captive replacement parts or components for

equipment; books, papers, and other library materials that are available only from the person holding exclusive distribution rights; management service provided by a non-profit organization to a municipal museum, park, zoo or other facility to which the organization has provided significant financial or other benefits.

If a purchase is made an interlocal contract for cooperative purchasing administered by a regional planning commission, there is no need to obtain quotes. Some cooperative purchasing programs, such as Texas Building and Procurement Commission Cooperative Purchasing Program (TBPC) and the Houston-Galveston Area Council require that the purchase order must be issued by them rather than the City or the purchase will not meet competitive bidding requirements.

7. Homeland Security Funds

Prior to procuring or entering into contract(s) for any goods/services, utilizing Homeland Security funds, the Purchasing Coordinator for the City must check the debarment status of the vendor using the EPLS system (<http://www.sam.gov>) and document that verification has been done. This policy applies to the procurement of all goods or services regardless of the cost or quantity.

The Purchasing Coordinator will search the EPLS system for the vendor. If the vendor is found to be debarred, that vendor may not be used for procurements utilizing Homeland Security Funds. If the vendor is not debarred, print the screen page and retain with the procurement documentation. A copy of the screen print indicating the vendor is not debarred, at the time of purchase, must be included with the supporting documentation submitted to the Texas Homeland Security State Administrative Agency requesting reimbursement or advance.

Records of vendors verified should be retained for audit purposes (Maintain a copy of the screen print verification form the EPLS website.) throughout the record retention period for the particular grant.

I. Contract Cost and Price

1. The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
2. The non-Federal entity must 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, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Cost or prices based on estimated costs for contracts under the Federal award are allowable for the non-Federal entity under subpart E of this part. The non-Federal

entity may reference its own cost principles that comply with the Federal cost principles.

4. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

J. Purchase Orders Not Required

Purchase Orders are not required for the following:

1. Travel or education reimbursement vouchers
2. Telephone, utility and garbage bills
3. Commission Salaries
4. Expense and travel report/mileage reimbursement
5. Petty Cash Vouchers
6. Withholding and FICA taxes and retirement
7. Election Salaries

K. Cancellation of a Purchase Order

The Purchasing Department, in conjunction with the department head, will review all outstanding purchase orders at least quarterly and may cancel merchandise that has not shipped within a 90 day period, subject to the Director of Finance's approval. Except for Capital Improvement Projects and other Capital items, as determined by the Finance Director, purchase orders over 90 days old may not be carried into the next fiscal year.

When a department wishes to cancel an order and a purchase order has been issued an authorized purchaser shall send a copy of the purchase order to the Purchasing Department with an explanation so the purchase order can be canceled.

L. Open Records Policy

Release of bids is subject to the Public Information Act. Trade secrets and confidential information in competitive sealed bids are not open for public inspection. All proposals are open for public inspection after the contract is awarded, but the trade secrets and confidential information in the proposals are not open for public inspection. The review by a vendor/citizen will be at the convenience of the Purchasing Department and made by appointment.

M. Prompt Payment

Section 2251 of the Government Code, commonly known as the Prompt Payment Act, sets out required deadlines for payment of a government's obligations to its vendors,

requirements for vendors' payments to their subcontractors, and penalties for failure to comply with the Act and exceptions to the Act.

Unless the City provides otherwise on the purchase order or contracts, the Act requires political subdivisions to pay all payments owed not later than 30 days after the goods or services are received, or the date the invoice is received, whichever is later. Interest automatically accrues at one percent (1%) per month. The Act also requires vendors to follow the same rules for payments to their subcontractors. Subcontractors must pay their suppliers, material men and servicemen, with 10 days of receipt of their payment.

When the City believes there is an error received from a vendor, it has until the 21st day after receipt to notify the vendor of the dispute. If resolved in favor of the City, the vendor must submit a new invoice and the City has 30 days to pay. If the dispute is resolved in favor of the vendor, interest is due from the original date of the invoice. Notice shall be sent to the vendor by Administration following discussions with the Department.

N. Sales Tax Exemption

Tangible personal property incorporated into realty of the City under Texas Tax Code 151.309 or 151.310 is exempt from sales and use tax. This includes materials used in lump sum and separated contracts.

In addition, tangible personal property that is necessary or essential to the performance of a contract for the City is exempt if the property is completely consumed at the job sites. Tangible personal property is completely consumed if, after being used once for its intended purpose, it is used up or destroyed. Machinery and equipment are not exempted and the contractor owes tax on the purchase, lease or rental of machinery, equipment, repair or replacement parts, and accessories for the machine or equipment.

Taxable services purchased for use in performing the contract will be exempt from tax if the service is performed at the job site, and the service is either expressly required under the contract or is integral to the performance of the contract. Sales and use tax exempt certifications and Texas resale certificate forms are issued by the contractors directly to the suppliers.

