

HIDALGO COUNTY PURCHASING POLICIES AND PROCEDURES

I. INTRODUCTION

1.01 The Purchasing Department of Hidalgo County, Texas (the “Purchasing Department” or “Purchasing”) was created by the Hidalgo County Commissioners Court (the “Commissioners Court”) on May, 03, 1988, pursuant to the provisions of Texas Local Government Code § 262.0115. As a result, the Commissioners Court has appointed a Purchasing Agent to coordinate the purchases made by Hidalgo County, Texas (the “County”). The Purchasing Agent serves at the pleasure of the Commissioners Court, and is authorized by statute to make all purchases not subject to competitive bidding requirements, supervise the competitive bidding process, and receive and deliver materials purchased in accordance with contracts awarded by bids. In addition, the Purchasing Agent is required by statute (Tex.Loc.Govt.Code § 262.023) to adopt, to the extent practicable procedures calling for competitive bidding of all purchases of items not required to be competitively bid under the County Purchasing Act, Tex. Loc. Govt. Code, Ch. 262 Subch. C and other applicable statutes. Pursuant to the requirements established by the Commissioners Court and the Local Government Code, these Hidalgo County Purchasing Policies and Procedures are adopted by the Commissioners Court on this the 8th day of August, 2005, to be effective for all purchases by the County, or any department or agency thereof, requested on or after August 08, 1995.

VII. COMPETITIVE BIDDING

7.01. **Bidding Required.** Before any person, department, official or agent of the County may purchase one or more items under contract that requires an expenditure exceeding Fifteen Thousand dollars (\$15,000.00), the competitive bidding requirements prescribed by Chapter 262, Texas Local Government Code, must be utilized with the assistance of the Purchasing Agent. In applying the competitive proposals, all separate, sequential or component purchases (purchases made separately, purchases made over a period of time or purchases of component parts of an item or items that in the normal purchasing practice would be purchased in purchase) are treated as if they are part of a single purchase and of a single contract. This requirement includes leases, installments payments and lease purchases in the event the total amount of payment will exceed Fifteen Thousand Dollars (\$15,00.00) over the life of the contract.

7.02. **Exception.** The only exception to the competitive bidding process outlined in this Article VII are set forth in section 262.024, Texas Local Government Code, and Article IX herein. These exceptions shall be determined solely as provided in Article IX.

7.03. Specifications/Procedures

7.03.01 When the purchase of one or more items requiring competitive bidding pursuant to Chapter 262, Texas Local Government Code, and this Article 7, is required, the person desiring to purchase the item shall first submit written specifications to the Purchasing Agent. The Purchasing Agent shall, upon request, assist in developing the specifications.

7.03.02 No specifications shall be written, which by design exclude legitimate competition between vendors. No brand names shall be utilized unless a disclaimer is used which opens the specification to competing brands of equal or superior quality.

7.03.03 The requisition, along with the proposed specifications and a bidding timeline, Are submitted to the Commissioners Court which shall approve the form and Content of the specifications and determine when the bids will be opened and when results will be submitted to the Commissioners Court.

7.03.04 After approval of the specifications and bidding timeline, the Purchasing Department will proceed with advertising for bids in accordance with the Timeline and applicable provisions of the Local Government Code.

7.03.05 The Purchasing Agent may mail an Invitation to Bid form to potential vendors When, in the judgment of the Purchasing Agent, such Invitation to Bid would enhance the bidding process.

7.03.06 Alternative competitive proposals may be obtained on purchases of insurance And high-technology items (as defined by statue), and for items for which it is Impractical to prepare detailed specifications. The procedure for this is prescribed in Sections 262.0295 and 262.030 of the Texas Local Government Code and may be utilized by the Purchasing Agent when approved by the Commissioners Court.

7.04 Selection of successful bidder

7.04.01 In competitive bidding, informal bids or proposals, the evaluation of the bids and proposals and the selection of vendors shall be done with the view to obtain the money spent. The vendor selected shall be responsible bidder who submits the

lowest and best bid.

- 7.04.02 The Purchasing Agent shall present the bids to the Commissioners court at a meeting at the Commissioners Court.
- 7.04.03 In the event two (2) responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two (2) by drawing lots in a manner prescribed by the County Judge or reject all bids and publish a new notice.
- 7.04.04 No contract shall be awarded to a bidder who is not the lowest dollar bidder meeting the specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appeal before the Commissioners Court and present evident concerning the lower bidder's responsibility.
- 7.04.05 In the event the Alternate Competitive Proposal Procedure or Alternative Multistep Competitive Proposal Procedure are utilized, as provided in Procedure 7.02.06, the lowest responsible bidder selection in accordance therewith may be determined through negotiation with parties submitting proposals.
- 7.04.06 In the event that information on costs of the repair, maintenance or repurchase of earth moving, material-handling, road maintenance or construction equipment is requested in a bid notice or specifications, such information can be considered by the Commissioners Court in selecting the most responsible bidder.
- 7.04.07 In considering the purchase of road construction materials, the location for pickup and delivery, and the cost to the County for hauling or delivering materials may be considered in selecting the most responsible bidder.
- 7.04.08 Multiple contracts may be awarded for the purchase or road construction materials if more than one bidder submits the lowest and best bid or a particular type or location of material.

7.05. **Changes in Plan and Specifications When** there are changes in plan 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 those changes; provided, however, the total contract price may not be increased unless the cost of the change can be paid from available funds. If a change order involves an increase or decrease in cost of Fifteen Thousand Dollars (\$15,000.00) or less, the Commissioners Court may grant general authority to an employee to approve the change order; provided, however, that the original contract price may not be increased by more than twenty-five percent (25%) unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted or rendered after the contract was made. The original contract price may not be decreased by eighteen percent (18%) or more without the consent of the contractor.

IX. EMERGENCY AND SOLE SOURCE PURCHASES, OTHER EXEMPT PURCHASES

9.01 Emergency Defined, Procedures.

9.01.01 Emergency (Priority One) purchases are governed by Tex. Loc. Govt. Code § 262.024(a) (1),(2), & (3) and are not utilized at all, except:

- a. In the 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;
- b. To purchase an item necessary to preserve or protect the public health or safety of the residents of the County; or
- c. To purchase an item necessary because of unforeseen damage to public property.

9.01.02 The following procedures *must* be followed for Priority One purchases;

- a. Qualification. The purchase must qualify as an emergency purchase under the definition in Procedures 9.01.01, or Tex. Loc. Govt. Code § 262.024.
- b. Designation. The designation of Priority One indicates a situation of such urgency that the normal purchasing procedure must be modified in the interest of speed, and therefore no competitive bids or quotations are required.
- c. Normal Working Hours. All emergency purchases occurring during normal working hours are processed through the Purchasing Department as follows:
 - i. The using department will notify the purchasing office by telephone immediately, with as much information as possible about the emergency purchase required, so that the purchasing action can be initiated immediately.
 - ii. Simultaneously, a purchasing requisition is prepared and hand carried through the normal channels.
 - iii. The Purchasing Department or using department head contacts as many vendors as are necessary to arrange the emergency purchase. If time permits, the PO is completed in the purchases in accordance with Procedure 6.04.06
Otherwise, the purchase is completed by telephone, and the PO is completed after the fact and delivered to the vendor.
 - iv. The buyer requests expedited delivery, and if not available, the using department or Purchasing arranges to pick up the emergency purchase from the vendor.
- d. Evening, Weekends and Holidays. For other than normal working hours, when purchasing support is unavailable, emergency purchases shall be processed as follows:
 - i. The responsible official of the using department takes whatever steps are necessary to procure needed supplies, services or equipment situation. If possible, only those goods or services needed during the evening, weekend or holiday are procured.
 - ii. On the first working day following the emergency, the responsible official prepares a requisition and hand-carries it to the purchasing office, as described Procedure 9.01.02(d)(ii), above, attaching the invoices, bills for materials, receipts or other documents related to the purchase.
- e. Certification. The official in charge of the using department must certify in writing on the next business day, or as soon thereafter as possible, that

the purchase involved was necessary because of one of the reason listed in Procedure 9.01.01.

- f. Commissioners Court Approval If a competitive bid would normally have been required under Article VII hereof to accomplish the purchase, the Commissioners Court must, by order, accept the certification of the official and enter it into the minutes of the Commissioners Court at its next meeting, together with authorization of the exception from the requirements of Article VII.

9.02 Sole Source Defined, Procedures.

- 9.02.01 A purchase qualifies as “Sole Source” purchase when the item or service Requested can only be obtained from one source, including;
- a. Item from which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
 - b. Films, manuscripts or books;
 - c. Electric power, gas or other utility services
 - d. Captive replacement parts or components for equipment.
- 9.02.02 Sole Source purchases are handled the same as other purchases, with these Exceptions:
- a. If the requesting department determines that the item is a Sole Source item, a statement must be attached to the Form HCPD-01 stating that a sufficient number of vendors have been contacted to determine that only one practical source of supply exists. The Requisition is otherwise completed in the normal manner.
 - b. If the Purchasing Department concurs that the item is a Sole Source purchase, a similar statement must also be attached to the requisition. If the Purchasing Department does not concur, the requisition is to be returned to the requesting department with an explanation of the reasons therefor.
 - c. For Sole Source purchases in amounts which otherwise require competitive bidding under Article VII thereof, the Purchasing Agent shall tender to the Commissioners’ Court a signed statement stating the reasons that the item is a Sole Source purchase. If the Commissioners’ Court concurs that the item is Sole Source purchase, it shall, be order, enter the statement into its minutes, and grant an exception from the requirements of Article VII.
 - d. Purchases of items described in Procedures 9.02.01(d) are hereby deemed Sole Source, and are exempted from the requirements of these procedures.
 - e. After the requisition is approved, a PO is prepared in accordance with Procedure 6.04.06.

9.03 Other Exempt Purchases. In addition to emergency and Sole Source purchases, the following purchases may be exempted from the procedures outline in Article VII, and the procedures outlined in Article VIII, provided that, for purchases falling under Article VII, and order of the Commissioners Court is entered authorizing the exception, and for purchases falling under Article VIII, the Purchasing Agent approves the exception in writing;

- 9.03.01 A personal or professional service (not prohibitions on competitive bidding for professional services contained in the Professional Services Procurement Act, Tex. Loc. Govt. Code Ch. 2254, Subch A);

- 9.03.02 Any work performed and paid for by the day, as the work progresses;
- 9.03.03 Any land or right-of-way (including a lease of land or a building, in Accordance with Attorney General Opinion No. MW-535 (1982);
- 9.03.04 Any item of food, provided however, that in lieu of competitive bidding for purchases over \$5,000.00, the procedures outlined in Procedure 8.03 are followed at intervals established by the Commissioners Court;
- 9.03.05 Personal Property sold at auction by state licensed auctioneer, at a going out of business sale conducted in accordance with Texas Business & Commerce Code Chapter 17, Subchapter F, or by a political subdivision of this state, or an entity of the federal government;
- 9.03.06 Any work performed under a contract for community and economic development made by a county under Tex. Loc. Govt. Code §381.004;
or
- 9.03.07 The renewal or extension of a lease or of an equipment maintenance agreement if (1) the lease or agreement has gone through the competitive bidding or quote procedures within the preceding twelve (12) months, (b) the renewal or extension is the first renewal or extension of the lease of agreement.