

CITY OF SCHERTZ



PURCHASING POLICY



1400 SCHERTZ PARKWAY, SCHERTZ, TEXAS 78154

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1. INTRODUCTION

The purpose of this policy is to establish and describe the basic procurement philosophy and processes under which the City of Schertz (“the City”) operates. This established procurement framework provides for the planned and consistent approach of cost-effectively obtaining the necessary goods and services required to operate City departments in order to maintain service at appropriate levels. Additionally, the policy outlines the consistent and ethical processes and procedures that will demonstrate the City’s commitment to procuring goods and services in a fair, transparent, effective and legally compliant manner. The processes used to procure goods and services should always provide the best value (price and quality) for the City, while providing an open and fair process for vendors.

This policy will apply to all procurements funded by the City of Schertz, bond funds, and other funds unless specifically exempted by applicable law or by City policy. The exceptions are limited to items listed in Section 7, as well as certain professional services, real property, and leases that, because of their nature, are not conducive to normal purchasing routine. These procurements shall be made under the direction of the City Manager or designee.

This policy is effective immediately upon issuance, and supersedes all previous purchasing policy instructions or directives.

2. ROLE OF THE PURCHASING DEPARTMENT

The Purchasing Department is charged with the overall responsibility for issuing solicitations and negotiating with sources on matters relating to price, delivery, vendor selection and execution of contracts in accordance with the City Policy, State of Texas Statutes, and applicable Federal government requirements. The Purchasing Department will provide the initial contact point for directors, managers, staff, suppliers, consultants, and the public interested in information on the City’s activities. It will oversee and supervise the issuance, receipt, and opening of all offers and proposals that are submitted relative to the purchase of equipment, materials, supplies, and surplus disposal. The Purchasing Department shall maintain purchase history information files, as well as documentation of all transactions. The Purchasing Department will participate in negotiations, where appropriate, with user departments, project managers, consultants or contractors relative to specifications and contractual responsibilities. This will facilitate the thorough understanding and preparation of specifications or contract terms and conditions. The Purchasing Department will participate with user departments in establishing clear, concise, nonrestrictive specifications and instructions to be utilized in procurement. City consultants and/or project managers, when conducting the “request for quote” or bid processes, shall coordinate with the Purchasing Department for all approvals to bid, advertisements and bid opening dates, as well as resulting purchase orders or contracts. The Purchasing Department shall promote and maintain good vendor, inter-departmental and community relationships.

3. PROCUREMENT STANDARDS

a. Ethics:

The City shall maintain the best possible relationship with all vendors. The goodwill of sources and the reputation of the City will be promoted by:

- i. Keeping competition fair and open.
- ii. Maintaining consistent procurement policies and principles.
- iii. Observing strict truthfulness in all transactions and correspondence.
- iv. Respecting the confidence of sales personnel and their companies as to confidential or proprietary information, as well as being scrupulous about maintaining the highest level of business ethics when dealing with sources and City departments.

b. Conflicts of Interest:

- i. Affiliates (e.g., business concerns, organizations or individuals) and employees of the City are prohibited from submitting offers for or participating in any contract for City purchases from which they would financially benefit, directly or indirectly. No affiliate or employee of the City shall seek to influence in any manner the award of a contract or purchase of a product or service from any vendor. Affiliates and employees must immediately disclose to the City of any silent partnership, proprietorship, employment, relationship or other involvement in a prospective contract or procurement.
- ii. Acceptance of gifts by employees from sources or potential sources at any time is strictly prohibited, except for that which would be defined as *de minimus* by the Internal Revenue Service (IRS). Employees must not accept any gifts that create an obligation to any source and shall not conclude any transaction from which they benefit, directly or indirectly. City employees are not to participate in any type of extravagant entertainment with a supplier, customer, consultant, or contractor. These restrictions do not include entertainment such as business meals, company sponsored dinners, etc., which are customary and proper under the circumstances, as long as they are consistent with good business ethics and do not place the recipient under an obligation of any kind.

Employees may not solicit or accept gratuities such as any type of compensation, contribution, emolument, offer of employment, loan, reward, rebate, gift, money, lodging, service, or “other thing of value,” except as specifically outlined in this section.

- iii. Employees who do not comply with this policy may be subject to disciplinary action in accordance with the City’s Discipline policy.

c. Purchasing Department Personnel:

When potential conflict with an existing procurement regulation is suspected, or legal assistance is advisable, it is the responsibility of the Purchasing Department to notify the Department, Project Manager, Assistant City Manager, and/or City Manager.

d. City Employees:

All City employees are required to file a City of Schertz Conflict of Interest Form with the Purchasing Department if any family member is conducting, will conduct, or plans to conduct business with the City of Schertz. The form will be filled out annually (once a year) and filed with the Purchasing Department no later than October 1 of each year in which the family member begins discussions, correspondence, negotiations, submits an application or responds to a bid or proposal.

e. Contractors:

A person or business, and their agents, who contract with the City or who seek to contract with the City are required by Texas Local Government Code, Chapter 176, to file a conflicts disclosure questionnaire (Form CIQ) created by the Texas Ethics Commission which is available online at www.ethics.state.tx.us. The form must be filed with the City no later than seven (7) days after the date the person or business begins contract discussions or negotiations with the City, or submits an application, response to a request for proposals or bids, correspondence, or other writing related to a potential agreement with the city. Such person and businesses, and their agents, must also file an updated questionnaire not later than September 1 of each year in which the person or business begins contract discussions or negotiations with the City, or submits an application, response to a request for proposals or bids, correspondence, or other writing related to a potential agreement with the City and within seven (7) days after the date of an event that would make a filed questionnaire incomplete or inaccurate. An updated, complete questionnaire is not required if the person or business filed a questionnaire or updated questionnaire after June 1 but before September 1.

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Schertz City Council will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for any and all contract amendments, extensions or renewals. Contractors are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

f. Elected and Appointed Officials:

Elected and appointed officials are required to file with the Purchasing Department the state-mandated Conflicts Disclosure Statement as enumerated below:

- i. Officers of the City and its boards and commissions (including the Economic Development Corporation) must file a "conflicts disclosure statement" (Form CIS) with the Purchasing Department within seven days of becoming aware of:
 - 1. The officer or a family member of the officer has an employment or business relationship that results in taxable income with a person who

has executed a contract with the City or with whom the City is considering doing business; or

2. The officer or a family member of the officer has accepted one or more gifts (other than food, lodging, transportation, or entertainment) with an aggregate value of \$250 in the preceding 12 months from a person who has executed a contract with the City or who is being considered for business with the City.
3. A family member is defined as a person related to another person within the first degree by consanguinity (blood) or affinity (marriage) which includes a spouse, father, mother, son, daughter, father-in-law, mother-in-law, etc.
4. The conflicts disclosure statement (Form CIS) has been created by the Texas Ethics Commission and is available online at www.ethics.state.tx.us. Failure to disclose information is a Class C misdemeanor punishable by a fine not to exceed \$500.

4. PROCUREMENT AUTHORITY

The City Manager or one of the City Manager's Designees has authority to approve procurements in the amount of \$49,999.99 or less provided these expenditures are part of the City's budget and do not require a budget transfer.

Contracts for the purchase of goods and services involving an expenditure of \$50,000 or greater require the approval of the City Council, whether or not the purchase has been obtained through a competitive bidding or RFP procedure. Council will approve all contract awards or reject all bids, if a contract will not be awarded following a formal solicitation.

5. PURCHASING THRESHOLDS

a. Purchases Less Than \$3,000

Department head or designee may exercise discretion regarding the procurement of goods or services less than \$3,000. Competitive quotations, formal bidding or a bid tabulation sheet are not required, but competition is recommended. The Department Head or designee must initiate and approve the purchase order prior to actual purchase, unless the purchase is being made in accordance with the approved Credit Card Policy or when making the purchase from a vendor with an approved City Account as referenced in Addendum A of the Credit Card Policy.

b. Purchases Greater Than \$3,000 But Less Than \$25,000

User departments are responsible for obtaining a minimum of three informal telephone, email, fax or online quotes for goods or services when the total estimated cost is within the \$3,000 to \$24,999.99 range with exceptions as authorized by this policy. The quotes must be documented on a bid tabulation sheet and filed with purchase order documentation.

Procurement of services in an amount less than \$25,000 will generally be accomplished with a Purchase Order (PO).

For all purchases greater than \$3,000 but less than \$25,000, staff must obtain quotes from at least two (2) Historically Underutilized Businesses (HUB) located in Guadalupe County on a rotating basis. If a HUB cannot be identified, the City is exempt from this requirement.

c. Purchases Greater Than \$24,999.99 But Less Than \$50,000

User departments are responsible for obtaining a minimum of three informal written quotes for goods or services when the total estimated cost is within the \$25,000 to \$49,999.99 range with exceptions as authorized by this policy. The quotes must be documented on a bid tabulation sheet and filed with purchase order documentation.

Procurement of services in an amount greater than \$25,000 will require a written contract prepared by the Purchasing Department.

For all purchases greater than \$24,999.99 but less than \$50,000, staff must obtain quotes from at least two (2) Historically Underutilized Businesses (HUB) located in Guadalupe County on a rotating basis. If a HUB cannot be identified, the City is exempt from this requirement.

d. Purchases Greater Than \$50,000

The Texas Local Government Code requires either competitive bidding or competitive Requests for Proposals (“RFP”) for City purchases exceeding \$50,000.00 with few exceptions. City employees are prohibited from making "separate, sequential, or component purchases to avoid the competitive bidding requirements". **A violation of these prohibitions is a Class B misdemeanor (\$1,000 fine and/or 180 days in jail), and conviction resulting in immediate removal from office or employment and ineligibility for other public office or employment for four (4) years after the date of conviction.**

Departments shall consult with the Purchasing Department on the proper procurement process to obtain goods and services greater than \$50,000.

Detailed specifications and statements of work (SOW) will be developed by the Department, in consultation with the Purchasing Department. The Purchasing Department will coordinate all formal solicitations, in accordance with State of Texas and local statutes. Component orders or contracts, each less than \$50,000, but which in the aggregate exceed that amount, and which reasonably should be included in the one order or contract shall not be used to avoid the prohibition of Statutes.

All Purchases \$50,000 or greater require approval by City Council and the Purchasing Office prior to processing. The approved resolution number should be included in the Purchase Order notes.

HIGH TECHNOLOGY PURCHASES: "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, radio, and microwave systems;
- c. electronic distributed control systems, including building energy management systems; and
- d. technical services related to those items.

High technology purchases will be accomplished using a RFP process where the anticipated expense is in excess of \$50,000.00. The Texas Local Government Code requires that the relative importance of price and other evaluation factors be specified in the RFP. All RFP's will be prepared in cooperation with the User Department, Information Technology and the Purchasing Department.

PROFESSIONAL SERVICES: "Professional Services" are those services which involve mental or intellectual skills, usually accompanied by formal certification or licensing by a state agency, such as accounting, architecture, land surveying, engineering, medicine, real estate appraisal services. Section 2254 of the Government Code prohibits the purchase of professional services using competitive bidding requirements. User departments will select professional service consultants on the basis of demonstrated competence and qualifications, and will negotiate fees on the basis of what is fair and reasonable for the type of services, rather than on a "low bid" basis. Except for architect, engineer and surveyor services as discussed below, both price and qualifications can be considered in selecting consultants.

For the professional services listed above involving an anticipated expenditure of more than \$50,000, user departments are encouraged to use a formal solicitation process in coordination with the Purchasing Department but it is not mandatory.

ARCHITECTS/ENGINEERS/SURVEYORS: Procurement of architectural, engineering or surveying services is two-step process. The first step involves the initial selection of the most highly qualified provider of the services based on demonstrated competence and qualifications (and not considering price); and the second step involves negotiation of a fee with the selected provider at a fair and reasonable price. If a contract cannot be successfully negotiated with the most highly qualified provider of services, then the contract negotiations will be formally ended and negotiations with the second most qualified provider may be undertaken, and so forth. It is important to keep in mind that price may not be considered in the initial selection of an engineer, architect or surveyor.

CONTRACT AMENDMENTS: All contract amendments will be approved by the City Council if the contract was originally approved by the City Council, or if amendment amount will take the total contract value above \$50,000.

ALTERNATIVE PROJECT DELIVERY METHODS FOR CONSTRUCTION PROJECTS: The alternatives to the basic competitive bidding model of construction procurement are best-value competitive bidding, competitive sealed proposals, design-build, construction management-agent, construction management at-risk, and job order contracting.

Alternative project delivery methods, as defined in the Local Government Code, Chapter 271, Subchapter H, may be used as applicable.

6. EXEMPT PURCHASING FUNCTIONS

State law provides few exemptions from competitive bidding requirements. The City encourages the use of making certain exempt purchases using an RFP procedure even though such a procedure may not be required under state law.

a. Emergency Purchases:

Emergency purchases are those procurements necessary due to public calamity, to act at once to relieve the hardship of the citizens or to preserve the property of the City, to preserve or protect the public health or safety of the citizens, or when it is due to unforeseen damage to public property, machinery, or equipment.

- i. When emergency procurement of materials or services is required, the Department Head will consult with the Purchasing Department and obtain approval from the Assistant City Manager prior to any procurement action.
- ii. If an Assistant City Manager is not available, the Department Head will obtain only those materials or services absolutely critical to restore or re-establish essential City services. The Department Head must advise the Purchasing Department and the Assistant City Manager of these actions as soon as possible.
- iii. With approval by the City Manager or one of the City Manager's Designees, specific procurements (\$50,000 or more) may be outside the sealed bid process in the event of an emergency. The Purchasing Department must be notified of the emergency situation as soon as possible.
- iv. Staff will seek and obtain approval of the City Council for emergency procurements in excess of \$50,000 as soon as possible.
- v. In the event of a declared local state of disaster or public health emergency, as authorized by City of Schertz Charter and Ordinance No. 00-M-36, please refer to the disaster purchasing policies included in the City's Emergency Management Plan, Annex M – Resource Management.

b. Sole Source Purchases:

State laws allow for a limited exemption from competitive bidding for the purchase of goods where the functional requirements of the City can be satisfied by only one source.

This applies to purchases where competition is precluded such as:

- i. The existence of patents, copyrights, secret processes or natural monopolies;
- ii. The purchase of films, manuscripts or books; purchases of gas, water, and other utility services; and
- iii. The purchase of captive replacement parts or components for equipment.

A product is eligible for sole source purchase only when there is a significant functional difference between the product and other similar products on the market, and when the item is available only from one vendor. The following are not sufficient justifications for a sole source purchase:

- i. A product is made by only one manufacturer, if products from other manufacturers are available that perform a similar function.
- ii. A particular name brand of product is preferred over other brands.
- iii. Only one local vendor offers a product, if other vendors who offer the product can meet the City's needs.

All requests for sole source purchase require a sole source justification form be completed and approved by the Purchasing Department prior to any procurement action.

c. Cooperative Purchasing:

The City may enter into cooperative buying agreements with other local government agencies in accordance with the State of Texas Interlocal Cooperation Act of 1971. Use of co-ops should be coordinated through the Purchasing Department. When co-ops are used, bids are not required. However, employees are expected to use due diligence to ensure best value for the City. cursory checks should be completed to ensure that cooperative pricing is competitive and in line with market value. An approved purchase order referencing the Group Purchasing Cooperative Contract and Contract Number is required before any purchase can be finalized.

d. Exempt Purchases:

Local Government Code Chapter 252.022 expressly exempts certain purchases from competitive procurement requirements. Purchases made under this exemption do not require formal consent of the City Council. The following are considered exempt:

- (1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
- (2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- (3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- (4) a procurement for personal, professional, or planning services;
- (5) a procurement for work that is performed and paid for by the day as the work progresses;
- (6) a purchase of land or a right-of-way;
- (7) a procurement of items that are available from only one source
- (8) a purchase of rare books, papers, and other library materials for a public library;
- (9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- (10) a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- (11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- (12) personal property sold:
 - (A) at an auction by a state licensed auctioneer;
 - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13) services performed by blind or severely disabled persons;

(14) goods purchased by a municipality for subsequent retail sale by the municipality;

(15) electricity; or

(16) advertising, other than legal notices.

7. EQUIPMENT AND VEHICLE PURCHASES

- a. All equipment and vehicle purchases will be coordinated through the Fleet Department. Once the Fleet Department has approved the specifications, the Purchasing Office will coordinate the bidding process and issue the Purchase Order.
- b. Vehicle purchase, receipt and outfitting must be processed through Fleet and the Purchasing Department to ensure proper operation, registration, vehicle markings, and insurance requirements are met. This applies to all vehicles regardless of which Department or funding source made the purchase.
- c. All vehicles shall be delivered to the Fleet Department. Fleet will not release the vehicle until all requirements are met.

8. PETTY CASH PURCHASES:

- a. Petty cash may be used for emergency acquisition of supplies and/or services when the vendor will not accept a purchase order or procurement card. It is also used for attendance at luncheons, meetings, etc., where “cash only” is the normal method of payment.
- b. No item purchased with petty cash funds may exceed \$100.
- c. All petty cash purchases must be supported with a receipt and written justification for the purchase.
- d. Individuals authorized to maintain petty cash accounts can get their accounts replenished by submitting a Purchase Order and attaching all relevant receipts as back-up to the Finance Department.

9. SPECIAL PROCEDURES FOR PUBLIC SAFETY SPECIFIC ITEMS:

- a. Any items that require special licensing to order, including but not limited to such items as medical supplies, medicines, firearms and ammunition, chemicals, etc., will be ordered by an authorized individual in the department.
- b. The person who holds a valid license to make such purchases must still coordinate with the Purchasing Department to ensure the best source of procurement.
- c. After the Purchasing Department has determined the best source of procurement, the license holder will prepare the appropriate purchase order, in accordance with this policy.

10. INSURANCE REQUIREMENTS:

The City may require certain insurance coverage to be provided by contractors, vendors and consultants. In general, if a service is being provided on City property, proof of insurance is required. Specific insurance requirements are incorporated into bid documents and specifications for each bid, proposal, or “request for purchase.” Insurance requirements are reviewed periodically to determine the appropriateness of coverage and values.

11. FIXED ASSETS

The City is responsible for keeping records of all of its fixed assets. All new assets which have an original cost of \$5,000 or more and an estimated life span of greater than one (1) year are fixed assets and will be added to the fixed assets records. All duties and responsibilities related to fixed assets inventory records are supervised by the Purchasing Department. Cooperation from department directors and division managers throughout the City is necessary if the system is to work; however, this effort is centrally organized, monitored, and reported by the Purchasing Department staff. Departments should submit a copy of the Purchase Order for a Fixed Asset to the Purchasing Department.

12. SURPLUS

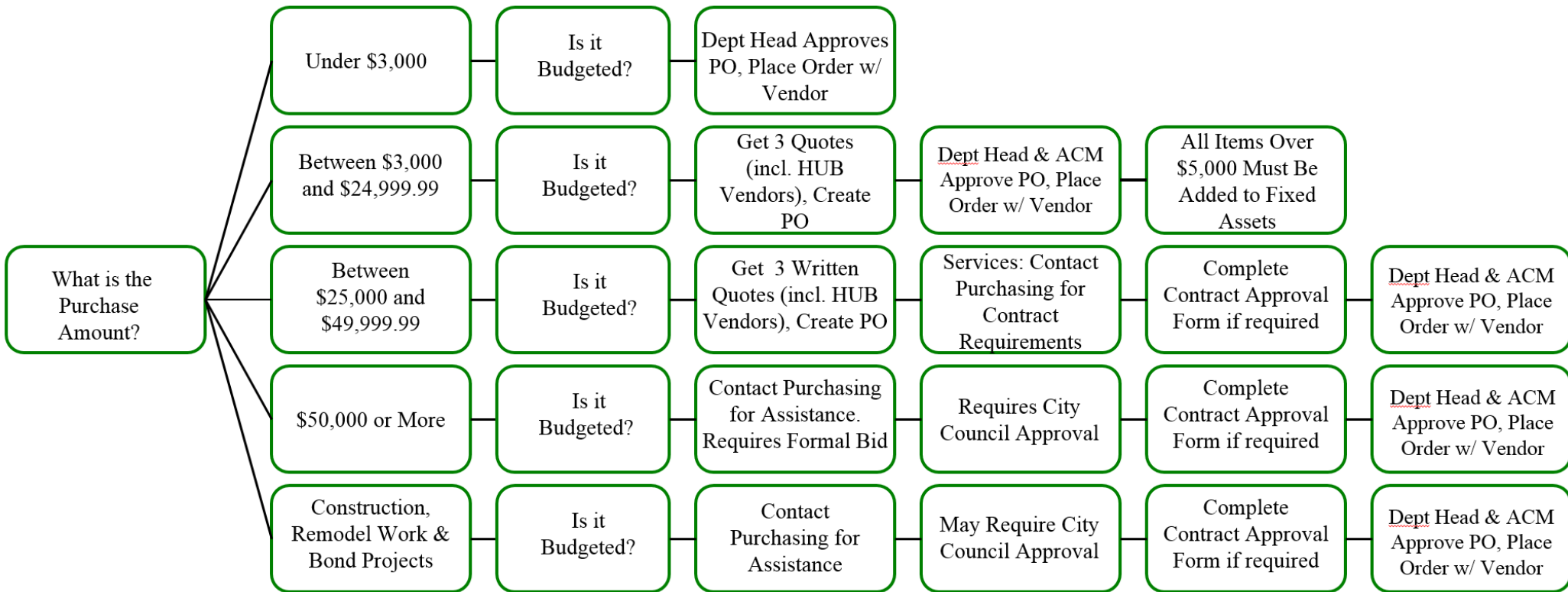
Individual Departments must contact the Purchasing Department for assistance with asset disposal. Surplus items will only be accepted with the proper forms and with advance notice and approval by the Purchasing Department. The Purchasing Department will determine if an item is surplus or salvage property.

13. CONSIDERATION OF LOCATION OF BIDDER’S PRINCIPAL PLACE OF BUSINESS

For purchases of \$50,000 and over, where competitive sealed bids are used, a bid received from a bidder whose principal place of business is located within the City limits may be approved if the bid is within 3% of the lowest bid price received from a bidder outside the City limits, provided that said bid meets all qualifications and specifications and provides the best value to the City.

ATTACHMENT A

Purchasing Decision Tree



ATTACHMENT B

Sourcing Strategy

Identifying a need properly is important; however, determining how best to meet that need is of equal importance. Needs can be met by a multitude of sources.

These basic classifications are:

- Insourcing: process of completing a business function in-house.
- Outsourcing: process of contracting out a business function to an external entity.
- Multi-sourcing: a strategy that distributes a function such as IT or Finance, as a portfolio of activities, some of which are performed internally and some of which are external.

In order to determine if a service should be insourced, outsourced, or multi-sourced, the following criteria should be considered:

- Efficiency of cost vs value;
- Effectiveness in meeting the need;
- Expertise needed to solve the problem;
- Workload timing of insourced staff availability;
- Workload volume of insourced staff to continue to provide service;
- Scalability of the solution to adjust to demand; and
- Mandated compliance requirements.

A Case for Insourcing:

There are several sources of solutions for needs that are not currently met by the City. Some may be derived internally. For a short-term need such as a storm damage cleanup of fallen trees, this can be accomplished by one of two means, temporary reassignment of staff or increase in the hours worked. Both have costs to the City; however, the short-term nature of the need does not require an extended cost commitment on departments if personnel and equipment resources are available. Long-term needs, however, may require a different approach.

A Case for Outsourcing:

For example, instead of storm damage cleanup of trees, City properties may have suffered a blight such as oak wilt. The mitigation would require extended specialized and technical capability to handle such a situation. In this case, the time committed to such a project might stretch in-house resources beyond the ability to effectively combat the issue. The City may hire additional staff to confront the issue however, after the issue is resolved, additional staff would require a long-term commitment of financial and administrative resources. This need could effectively be outsourced to a firm with the specialized technical skills and equipment to quickly and professionally mitigate the issue. After the project is complete, the expenditure commitment is ended.

Contact the Purchasing Department for assistance with sourcing.

ATTACHMENT C

Standard Insurance Requirements

Worker’s Compensation*	Statutory
Employer’s Liability	\$1,000,000/\$1,000,000/\$1,000,000
Commercial General (Public) Liability insurance to include coverage for the following: a. Premises Operations b. Independent Contractors** c. Products/Completed Operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of \$1,000,000 per occurrence. \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability a. Owned/Leased Vehicles b. Non-owned Vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and property Damage of \$1,000,000 per occurrence
Professional Liability (Claims Made Form)	\$1,000,000 per claim to pay on behalf of the insured all sums, which the insured shall become legally obligated to pay as damages to the extent caused by any negligent act, error, or omission in the performance of professional services.
*Alternate Plans must be approved by CITY’S Risk Manager	
**If applicable	

All insurance policies are to contain or be endorsed to contain the following required provisions:

- The City of Schertz shall be named as an additional insured with respect to General Liability and Automobile Liability (not applicable to workers’ compensation and professional liability policies);
- A waiver of subrogation in favor of The City of Schertz shall be contained in the Workers Compensation and all liability policies;
- All insurance policies, which name The City of Schertz as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- All insurance policies shall be endorsed to the effect that The City of Schertz will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.

Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.