



# *Purchasing Policies & Procedures Manual*

County of El Paso

Adopted by Commissioners Court September 21, 2015,

Amended \_\_\_\_\_

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**DISCLAIMER**

This is a general description of Purchasing Policies and Procedures to assist departments in understanding the most common procurement processes. It is subject to applicable law, rules and regulations as amended, and the particular circumstances of each procurement. For questions as to the specific procurement, please contact the Purchasing Agent.

## **INTRODUCTION**

The County of El Paso Purchasing Department presents this manual to promote understanding by employees, vendors, contractors, and the public regarding the procurement of goods and/or services on behalf of the County.

The public must have confidence that public funds are spent prudently, on its behalf, and not for the personal benefit of County employees, officials, or their constituents or friends. The deliberate elements of actual or perceived conflict of interest, fraud and abuse can be destructive to the public trust. The policies and procedures incorporated within should:

- Provide a centralized procurement program encompassing statewide and nationally approved principles and practices.
- Be reviewed, thoughtfully and regularly, to ensure the utility of procurement statutes and for periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.
- Promote and encourage ethical management and efficiency in procurement procedures.

The purpose of this manual is to establish policies and procedures that will be used to:

- Simplify, clarify and modernize the County of El Paso's procurement practices.
- Ensure the application of consistent and sound business practices in County purchasing and demonstrate our ongoing commitment to increasing communication among the departments.
- Bolster public confidence in public procurement procedures.
- Ensure the fair and equitable treatment of all persons dealing with the County procurement system.
- Foster effective broad-based competition within the free enterprise system.
- Provide increased economy in County procurement activities.
- Maximize the procurement value of County funds.
- Safeguard the high quality and integrity of the procurement system.
- Ensure that expenditure of public funds (including Federal and State funds) complies with the terms and conditions of the funding source. If Federal or State requirements conflict with provisions of this manual, nothing in the manual shall prevent the County from complying with the terms and conditions of the Federal or State requirements.

### **PURCHASING AUTHORITY**

In accomplishing this duty, The Purchasing Department is tasked with observing and enforcing the procedures outlined and adopted in this Purchasing Policies Manual, the Texas Local Government Code, the Texas Government Code, and other applicable Federal and State laws related to the purchase of goods and services. Discussion of all applicable laws are beyond the scope of this Purchasing Manual.

### **APPLICATION**

The Purchasing Agent shall purchase all supplies, materials, and equipment required or used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials or equipment or make the contract for repairs.

The Purchasing Act applies to all departments, all district, county, and precinct officials and employees and all subdivisions of all district, county, and precinct offices with the exception of funds excepted by law.

As a procedure, any proposed changes to the Purchasing Policies and Procedures Manual will be reviewed by the Purchasing Board prior to submitting to Commissioners Court.

In general, the Purchasing Agent interprets these policies and procedures but the Commissioners Court resolves any question about any interpretation of these policies and procedures when there is a conflict related to an area that is not within the statutory authority of the Purchasing Agent.

## DEFINITIONS OF TERMS

Addendum – A document used to change the terms and/or conditions of a Solicitation.

Advertisement or Advertise – A public legal notice put in a newspaper of general circulation containing information about an Invitation for Bid or a Request for Proposal.

Annual Term Contract – A recurring contract for goods or services, usually in effect for a 12-month period.

Auditor – County of El Paso Auditor and their designated representatives.

Bidders List – A computerized database of vendors who have signified in writing an interest in submitting bids for particular categories of goods and services.

Bonds as defined by Government Code 2269:

Bid Bond – A guarantee that promises the bid will not be withdrawn prior to contract award. Normally it is five percent (5%) of the highest amount bid and is in the form of a financial guarantee provided by a surety; however, it can be cashier's or certified checks, or U.S. currency. Bonds of unsuccessful bids are returned after award. Bond of successful bidder is retained until the contract is executed and any necessary payment/performance bonds are submitted and accepted. If the successful bidder refuses to execute the contract or submit proper payment and performance bonds, then the bid bond is "called" for the difference between their bid and that of the next low responsive responsible bidder, up to the penal amount of 5% of the bond.

Payment Bond – A guarantee that promises payment to subcontractors and suppliers on a contract during performance. It must be submitted prior to any work. It is normally one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier's or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to pay subcontractors and suppliers, then the payment bond is "called" for the amount of non-payment.

Performance Bond – A guarantee that promises that the contract will be performed as required. It must be submitted prior to any work. Normally it is one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier's or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to perform and complete the contract as required, then the performance bond is "called" for the amount required to complete the contract. A surety that provides a bond may be permitted to "take over" a failed or defaulted contract.

Change Order – A document used in construction contracts that changes the contract by increasing or decreasing the cost or time for performance, or changes the goods/services

to be delivered.

Commissioners Court – County of El Paso Commissioners Court.

Commodity Code – Provides a unique number for each material maintained in the Purchase Order database. This code is in compliance with National Institute on Governmental Purchasing (NIGP) numerical format.

Competitive Bidding – Letting available vendors compete with each other to provide goods/services.

Competitive Proposal Process – Letting available vendors compete with each other to provide goods/services in compliance with applicable laws.

Component Purchases – Purchasing a series of component parts of goods that normally would have been purchased as a whole.

Contract – A formal, written agreement or Purchase Order approved by the County and a vendor, containing the terms and conditions under which goods/services are to be furnished to the County.

County – County of El Paso, Texas.

County Attorney – County of El Paso Attorney or their designated representatives.

County Clerk – County of El Paso Clerk or their designated representatives.

Customers – The County departments and Elected Officials.

County Departments – All County and precinct offices and subdivisions of them, elected officials, as well as district offices and subdivisions when the purchase is even partially funded by County money.

Designee – Individual Purchasing Department employee given the authority as an additional agent to the Purchasing Agent to perform County business.

Emergency Purchase – A purchase that is needed because of an emergency condition as described in Texas Local Government Code Section 262.024(a)(1) or otherwise authorized by law.

Employee – Any County or precinct elected official, appointed official, or employee and any district elected official, appointed official, or employee when the purchase will be partially funded with County money.

Executive Manager – Any Department Head, Elected Official of a Department, or Chief of a district office, and any person authorized to act on their behalf.

Formal Competitive Bidding – The bidding process in compliance with applicable laws, which requires approval by the Commissioners Court.

Goods – Includes any personal property to be purchased by the County, including

equipment, supplies, material, and component or repair parts.

Invitation for Bid, Solicitation, or IFB – Specifications and formal bidding documents requesting pricing for a specified good/service that have been advertised for bid in a newspaper.

Lease – A contract for the use of personal property for a period of time for a specified compensation.

Responsive Bid: The respondent has complied with all material aspects of the solicitation document, including submission of all required documents.

Responsible Bid – The respondent has the capability to fully perform and deliver in accordance with the contract requirements. The agency may include past performance, financial capabilities and business management as criteria for determining if a bidder or proposer is capable of satisfying the contract requirements.

Modification – A document used to change the terms/conditions of a signed or approved contract.

Official – Any elected or appointed County official and any person authorized to act on their behalf.

PR Team – Purchasing Review Team– A group of individuals requested by the Purchasing Agent to review formal requests for bid, bid awards, contract amendments, construction change orders, sole source purchases, etc. The team may consist of the Purchasing Agent, a representative of the County Auditor's, County Attorney's, or other applicable department as a subject matter expert. PR review of purchases in excess of \$50,000 is required prior to placement on Commissioners Court agenda for approval.

Pre-Bid/Proposal Conference – A conference conducted by the Purchasing Department for the benefit of those wishing to submit a bid or proposal for services/supplies required by the County. This is held in order to allow bidders/proposers to ask questions about the proposed contract and particularly the contract specifications.

Proprietary Information – Information in bids or proposals to which the vendor claims ownership or exclusive rights and which may be protected from disclosure under the Texas Public Information Act (Texas Local Government Code, Chapter 551).

Purchase Order – An order by the Purchasing Department for the purchase of goods/services written on the County of El Paso standard Purchase Order form and, when accepted by the vendor without qualifications within the specified time limit, becomes a contract. It is the vendor's authority to deliver and invoice for goods/services specified, and the County's commitment to accept the goods/services for an agreed upon price.

Purchase Requisition – A request by a department to the Purchasing Department that



authorizes Purchasing to enter into a contract with a vendor to purchase goods/services and charge the expenditure to the appropriate department budget. This automated form is for internal use and cannot be used by a department to order material directly from a vendor.

Purchasing – The act, function, and responsibility for the acquisition of goods/services, including construction and professional services.

Purchasing Act – Chapter 262, Subchapters A, B, & C of the Texas Local Government Code that governs certain county purchasing practices. -

Purchasing Agent – The procurement official for the County who reports to the Purchasing Board and the designated representatives. (LGC 262.011)

Purchasing Board – A board comprised of three (3) district judges and two (2) members of County Commissioners Court who are responsible for appointing the Purchasing Agent and approving the department's budget. (LGC 262.011)

Purchasing Department – County of El Paso Purchasing Department and its staff.

Request for Proposal or RFP – A document requesting an offer be made by a vendor, which allows for discussion and revisions for the purpose of obtaining best and final offers after a proposal has been received, but before award of the contract for goods/services.

Request for Qualifications or RFQ – A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act.

Sealed Bids – Competitive bids required to be advertised in a newspaper and submitted to the Purchasing Department in a sealed envelope or through a secure electronic bidding system.

Separate Purchases – Purchases made in a series of separate purchases of goods/services that, in normal purchasing practices, would have been made in one purchase. **This practice is a violation of the Purchasing Act.**

Sequential Purchases – Purchases made over a period of time that, in normal purchasing practices, would be made as one purchase. **This practice is a violation of the Purchasing Act.**

Services – Includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal, or professional services.

Sole Source Good or Service – A good or service that can be obtained from only one source, because of patents copyrights, secret processes, or monopolies; films, manuscripts, or books, purchase of utilities, captive replacement parts or components, The following items require Commissioners Court designation as sole source exemptions: food items, vehicle and equipment repairs.

Solicitation or Invitation – A document—such as an invitation to bid, request for proposal, request for offers, or request for qualifications—issued by the Purchasing Department. This document contains terms and conditions for a contract, and it seeks (solicits) a bid or proposal for goods/services needed by the County.

Specifications – A concise description of a good or service that an entity seeks to buy, and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, preparing an item for delivery, and preparation or installation for it to be used. The specification is the total description of the item to be purchased.

User Department – The department that will receive and use the good or service that has been purchased.

Vendor – One who sells something; or bids on the County's solicitations. Depending on what is being purchased, the vendor can also be referred to as "Service Provider", "Contractor", "Consultant" or "Bidder".

## Section 1

### THE PURCHASING AGENT'S RESPONSIBILITIES

In general, it is the duty of the Purchasing Agent to procure supplies, equipment, and services to the various departments and elected officials in the required quality and quantity, at the best possible price consistent with County policy and County budget.

Some of the Purchasing Department's responsibilities are as follows:

- To conduct the Purchasing functions in such a way that vendors are accorded fair and equal treatment and so that vendors:
  - Will be aware of the fairness of all awards
  - Will be encouraged to continually furnish competitive bids so the County shall secure the best goods and services of the right quality and the best price.
- To encourage competitive bidding at all times while maintaining good vendor relations.
- To solicit new vendors, within and outside County of El Paso, and do all things possible to encourage maximum participation.
- To maintain a list of vendors classified according to materials, equipment, supplies and services.
- To assist department directors and elected officials in their efforts to purchase all supplies, materials and contractual services for the County.
- To explore the possibilities of consolidating purchases of like or common items, when possible, to obtain the maximum economic benefits.
- These last two tasks are accomplished by standardization and competitive bidding on the basis of adequate specifications, whenever practicable.

To assist the Purchasing Agent as warranted to assemble the department with an Assistant Purchasing Agent and adequate professional Purchasing staff. The Purchasing Department is committed to promoting effective, professional, and consistent procurement in County of El Paso, as well as providing excellent customer service to departments, the business community, and the public.

In addition to solicitation of formal sealed bids, requests for proposals, requests for offers, requests for quotations; this department is also responsible for:

1. Physical Inventory of County Assets – On July 1<sup>st</sup> of each year, The Purchasing Agent will furnish to the Auditor a list of County property currently in inventory, per Local Government Code.
2. Maintaining Surplus Property Warehouse and preventing unnecessary purchases - The Purchasing Agent shall recommend the transfer of County property or goods that are not needed from a department or employee, to another department or employee requiring the goods or use of them.
3. Maintaining all vehicle/equipment titles
4. Auction or Disposal of Surplus Property
5. To provide for the inspection and appropriate testing for goods delivered, although this responsibility may be delegated to the head of the using department, and to insure that inferior or unsatisfactory articles are rejected or returned.

6. To stay abreast of current developments in the field of purchasing, i.e. prices, market conditions and new products. Investigate and analyze, for the benefit of the County, research done in the field of purchasing by other governmental agencies and by the private industries.
7. To monitor contract timelines in order to assure timely bids and contract renewals in collaboration with County's Contract Administrator.
8. To maintain a record of all bids, quotations and purchases.
9. To investigate violations of the purchasing statutes or policies.
10. To oversee the operations of the mail center and printshop.

This manual contains the authorized procedures for purchasing by County officials and employees. These procedures are adopted by the County of El Paso Commissioners Court, and changes in the contents of this manual shall be made upon the recommendation of the Purchasing Agent, review by the Purchasing Board, and approval by the Commissioners Court.

## Section 2

### **PURCHASING CODE OF ETHICS POLICY**

In addition to observing the El Paso County Code of Ethics, it is the policy of County of El Paso that the following ethical principles will govern the conduct of every employee involved directly or indirectly in the County procurement process. The County shall comply with all current and future ethical requirements under the law.

#### **RESPONSIBILITY TO COUNTY**

Employees will avoid any activities that would compromise or give the perception of compromising the best interests of County of El Paso. Employees will not use confidential proprietary information for actual or anticipated personal gain.

#### **CONFLICT OF INTEREST**

Employees will avoid any activity that would create a conflict between personal interests and the interests of County of El Paso. Conflicts exist in any relationship where an employee is not acting in the County's best interest and may be acting in their own best interests or the interests of someone associated with them. Such conflicts of interest would include being involved in any procurement activity in which:

1. The employee or any member of the employee's family has any financial interest pertaining to the County of El Paso procurement process, per County of El Paso Ethics Commission Regulations.
2. A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the County of El Paso procurement process; or
3. Any other person, business, or organization with whom the employee or a member of the employee's family is negotiating or has any arrangement concerning prospective employment.

If any such conflicts of interest exist, the employee will immediately notify the Purchasing Agent in writing and will remove himself/herself from the County of El Paso procurement process.

#### **CONFIDENTIAL INFORMATION**

To the extent allowed by state and federal law, employees will keep all proponents' and vendors' proprietary information confidential. Employees will keep County of El Paso procurement information obtained from a formal or informal quote, bid, RFP, RFQ, or RFI confidential as long as that vendor information is retained by County of El Paso.

#### **CONDUCT WHEN DEALING WITH VENDORS**

##### **Gratuities**

Employees will never solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. Generally edible goods with a value of \$50.00 or less are acceptable if shared with the entire staff and will not offend this prohibition unless it appears to influence a purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual

should disclose the proposed transaction in writing to the Purchasing Agent for interpretation.

Vendors or bidders who offer gifts, entertainment, etc. may be declared an irresponsible bidder and may be debarred from bidding for the period of one year.

**Communicating with Vendors during the Bidding process**(Per County Code of Ethics regulations).

Once the bidding process has begun by the Purchasing Department, County employees shall not communicate with the vendors in any way. All communication via phone, e-mail, fax, or in person shall be through the Purchasing Department staff. If the employee receives any communication from the vendor, immediately contact the Purchasing department or forward the e-mail to the appropriate Buyer. The intent is to prevent vendors from bypassing Purchasing in an attempt to influence employees or to gather additional information that is not shared with all prospective bidders.

**Purchasing Staff and Department Responsibilities in Dealing with Vendors**

It is important to:

- Deal with vendors fairly.
- Do not play the “meet or beat” game with pricing among bidders.
- Offer to give equal assistance to all suppliers and potential vendors.
- Be certain to make public procurement records open and available to anyone requesting information. This excludes information that is proprietary or confidential.
- Make certain solicitation activities are truly competitive.
- State the award criteria in the terms of the solicitation and do not change those criteria unless an addendum has been posted on the County website describing the change..
- No preference should be given to brand names. Goods or services should not be called proprietary or sole source unless it is determined that they are and that determination can be documented by the Purchasing Department.
- No subjective favoritism is permitted; for example, a statement like “We have always bought from that vendor” is reasoning that does not encourage or allow for competition.
- Be certain to give the same kind of service to internal customers and external suppliers as you expect to receive from them.

The ability to make purchases on behalf of the County does not entitle the purchaser to any kind of special personal privileges from the vendor and no professional buying for the County should be, in any way, tied to any personal purchases at any time.

County Public Servants shall complete the County of El Paso Ethics Training per requirements of the County of El Paso Ethics Commission.

**PERCEPTION IS EVERYTHING.** Even if a procurement decision is sound, the method of determination should be documented and will be open to public inspection. If a decision is perceived to be less than fair to all competitors, then the perception becomes the reality to the unsuccessful bidders. And, if the opinion is that the County has "favorite companies we always do business with," our job is to set the record straight with all who may have this complaint. It is important that awards are made based on competition or the best value for the County, that the reason(s) for those awards is documented and defensible, and that a decision is based on fact and is made in the best interest of the County.

**ETHICS TRAINING FOR BIDDERS**

Vendors shall be required to read, sign and return the County of El Paso Ethics Training Affidavit form that is included with each bid submission. A sample of the Ethics Training Affidavit is included in the "Forms" section of this document.

**CONFLICT OF INTEREST QUESTIONNAIRE (CIQ) FOR BIDDERS**

Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Conflict of Interest Questionnaire (CIQ Form), the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. With every bid, the County lists the County employees and officials that will make recommendations for award or award the bid. By law, this questionnaire must be filed with the County Clerk of County of El Paso, Texas. If no conflict of interest exists, write "N/A" or "None" in Box 3 of the CIQ Form. For Bidder's convenience, a blank CIQ Form is enclosed with each bid. Blank CIQ Forms may also be obtained by visiting the Purchasing Department website at: <http://epcounty.com/purchasing/bids/default.htm>.

**DISCLOSURE OF INTERESTED PARTIES**

Prior to entering into a contract that is voted on by Commissioners Court, the prospective business must submit a "Disclosure of interested parties" Form. Within 30 days of receipt of the form, the County must submit a copy to the Texas Ethics Commission. The Disclosure of Interested Parties form is available on the County purchasing website after 12/1/15. (H.B. 1295)

**Section 3**

**THE PURCHASING TIMETABLE**

**A. Purpose**

This section will describe the steps in the purchasing process and which department is responsible for completing each step. Approximate timelines are also assigned to each step.

**B. Goal**

To help users understand how paperwork is transmitted through the purchasing and payment process, and to give the approximate timelines for each step to assist departments in planning their purchases better and with enough advanced notice to complete their purchase by their deadline.

**C. Purchasing Steps and Timetable**

Contrary to popular opinion, the Purchasing Department converts the basic requisition into a Purchase Order in about 4 work days minimum. There are many circumstances and bidding situations that can extend this timeline. The table below will show the steps and timeline for each bidding situation. The “average number of days” is from beginning of the process to creation of the Purchase Order.

**Table 1 – Purchase of items under a current County Contract – (Average 1-4 days):**

Step	Duties	Performed By	Timetable
1	Identify requirements and available budget	Department	--
2	Submit requisition listing the items to be purchased and the contract prices	Department	--
3	Requisition is reviewed by Auditors for available budget and correct expense code	Auditors	1-2 days
4	Approved requisition is forwarded to Purchasing, ensures compliance with contract prices. Purchasing converts the requisition into a purchase order.	Purchasing	1-2 days
5	Purchase Order given to department for order placement. Department places order.	Department	1 day
6	Delivery of order	Vendor	Turnaround time given
7	Receive goods/services and verify completeness	Department	Same day to 1-day after receipt of goods / services.
8	Document receipt on receiver copy of PO and submit to Auditor's for invoice payment	Department	1 day
9	Match receiver copy with Invoice and generate payment	Auditor	2-4 days
10	Submit payment claim to Commissioners Court for Approval	Auditor	7-10 days
11	Approve payment of claim	Commissioners Court	1 day
12	Disburse payment of claim	County Auditor-Treasury Division	1-2 days



**Table 2 – Purchases under \$50,000 where Purchasing obtains a minimum of three (3) bids (Average 3-10 days):**

Step	Duties	Performed By	Timetable
1	Identify requirements and available budget	Department	--
2	Submit requisition listing the items or services to be bid	Department	--
3	Requisition is reviewed by Auditors for available budget, and correct expense code	Auditors	1-2 days
4	Approved requisition is forwarded to Purchasing. Purchasing solicits bids to 3 or more vendors. Purchase Order made.	Purchasing	2-4 days (Depends on how fast vendors respond, vendor questions, and bid due date.)
5	Purchase Order given to department for order placement or Purchasing sends to Vendor	Department or Purchasing	1 day
6	Delivery of goods/services	Vendor	# of days given by vendor or PO
7	Receive goods/services and verify completeness	Department	Same day to 1-day after receipt of goods / services.
8	Sign Receiver copy of PO and submit to Auditor's for invoice payment	Department	1 day
9	Match receiver copy with Invoice and generate payment	Auditor	2-4 days
10	Submit payment claim to Commissioners Court for Approval	Auditor	7-10 days
11	Approve payment of claim	Commissioners Court	1day
12	Disburse payment of claim	County Auditor-Treasury Division	1-2 days

**Table 3 – Competitive Bid Purchases over \$50,000, Construction Bids, and Bids to Establish County Contracts over \$10,000 (Average 10-14 weeks):**

Step	Duties	Performed By	Timetable
1	Identify requirements and available budget	Department	--
2	Submit bid specifications, Bid request form (section 1), 176 form, and Suggested Vendors form to Purchasing Agent	Department	--
3	Purchasing Agent reviews, edits specification. Sends edited version back to department.	Purchasing Agent	1 day – 3 weeks (Depending on number of changes needed, length of bid document, questions posed to the department.)
4	Final version of specification may be discussed with Auditors and County Attorney's and placed on the agenda	Purchasing Agent	Up to 8 days
5	Purchase is reviewed by Auditors for available budget, and correct expense code	Auditors	1-2 days
6	Purchasing solicits bid, holds pre-bid meetings, posts addendums, and opens bids/proposals by due date.	Purchasing	4-6 weeks
7	Department and/or Evaluation Committee reviews bids and submits recommendation	Department and Purchasing	1 week
8	Purchasing reviews award recommendation and submits to Auditor <del>for award approval</del> ; and County Attorney's <del>as needed</del> <del>for award approval</del>	Purchasing	1 week
9	Purchasing Agent places award on Commissioners Court agenda	Purchasing Agenda	6 days
10	Submit requisition listing the items or services to be bid	Department	Department can save time here if they prepare the requisition prior to Commissioners Court approval.
11	Approved requisition is forwarded to Purchasing. Purchase Order made.	Purchasing	2-4 days
12	Purchase Order given to department for order placement or Purchasing sends to Vendor	Department or Purchasing	1 day
13	Delivery of goods/services	Vendor	# of days given by vendor or PO
14	Receive goods/services and verify completeness	Department	Same day to 1-day after receipt of goods / services.
15	Document receipt on receiver copy of PO and submit to Auditor's for invoice payment	Department	1 day
16	Match receiver copy with Invoice and generate payment	Auditor	2-4 days

17	Submit payment claim to Commissioners Court for Approval	Auditor	7-10 days
18	Approve payment of claim	Commissioners Court	1day
19	Disburse payment of claim	Auditor	1-2 days

## Section 4

### GENERAL PURCHASING POLICY DO's AND DON'T's FOR DEPARTMENTS

#### DON'T'S

1. Do not authorize the purchase of any goods or services. Only the Purchasing Agent can authorize purchases on a signed purchase order form.
2. Don't commit to accepting material on "a trial basis". County of El Paso will not be obligated to purchase goods that are delivered for use on a trial basis or not purchased by the Purchasing Department. This action may be considered a prohibited gift under the Ethics Code, a potential violation of the Code.
3. Don't use purchasing strategies that violate the law to avoid competition. Such actions listed below are in violation of the law, (for example Texas Local Government Code, Section §262.023 and other statutes):
  - a) Component Purchases – Purchasing a series of component parts or goods that would normally be purchased complete.
  - b) Separate Purchases – Purchasing goods or services in a series of separate purchases that, in normal purchasing practices, would have been made in one purchase.
  - c) Sequential Purchases – Purchases made over a period of time that, in normal purchasing practices, would be made as one purchase.

A county officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements, is committing a Class B misdemeanor according to certain statutory provisions.

4. Don't make a commitment with a vendor to acquire goods or services without an authorized purchase order. This action is prohibited. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order may be held personally responsible for the payment.
5. Employees must never purchase goods or services using the County resources for their own personal benefit.
6. **Don't violate or authorize the violation of the Purchasing Act.** Any person who knowingly violates or authorizes the violation of the Purchasing Act or other procurement laws, rules or regulations, and any county or precinct person who fails to use the Purchasing Agent for purchases, including an agent or employee of the County or of a department of the County may be committing a criminal offense..

## DO's

1. If you're contemplating a purchase, contact the Purchasing Department, prior to taking any action. The Buyers in the Purchasing Department will assist and guide you in making the purchase according to established guidelines.
2. Monitor your department's budget balances and refrain from trying to process requisitions in excess of their balances unless the proper transfer of funds has been accomplished. Purchase requisitions for which there is not adequate funding will not be processed.
3. Departments should plan purchases in order to keep emergency and expedited purchase requisitions to a minimum. County of El Paso seldom realizes any economic benefits from hastily processed requisitions. In most cases, vendors attempt to charge premium prices for goods or services when the Purchasing Department is not allowed the proper time to explore all sources.

The Purchasing Department is totally committed to processing all purchase requisitions within a reasonable time frame. Refer to the Purchasing Timelines discussed on pages 6-8.

4. Departments must assure that all employees involved in making departmental purchases have read and understand the procedures in this manual. Departments should also ensure that the liaisons attend training provided by the Purchasing Department.
5. Coordinate with Purchasing on receipt of goods and services. This is very important because failure to sign receiving documents or notifying Purchasing that an item has arrived will delay payment to the vendor and delay the inventory tagging process. Continuous delays in vendor payments will discourage vendors from wanting to do business with the County. Departments should call or e-mail Purchasing as soon as items are received.
6. Notify Purchasing if an item on a Purchase Order has been cancelled, so Inventory staff can remove this item from their Anticipated Deliveries List.
7. Monitor vendor performance and notify Purchasing of any problems such as any shortage, late delivery, damaged merchandise, or any other problem relating to the vendor's performance. Departments should complete the Vendor Performance Report that is available on the website to report sub-performance of the vendor. This form will be kept in the bid file for future consideration at the time contracts are brought to the Commissioners Court for award.

## Section 5

### OTHER GENERAL PURCHASING POLICIES

#### **COUNTY AUDITOR FUNDS VERIFICATION**

According to Texas Local Government Code, section 111.093, the County Auditor shall:

- Charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriate account, and
- Certify the budget contains an ample provision for the obligations and that funds are or will be available to pay each obligation when due.

#### **ITD REVIEW OF DATA PROCESSING EQUIPMENT**

The Information Technology Department (ITD) reviews all purchase requests made by departments for software, hardware, phone systems, and other data processing equipment and provides a written assessment to the requesting department, Purchasing Office before requisition approval. This procedure is to ensure compatibility and standardization. ITD may provide the Purchasing Agent with a list of the goods and services that have been pre-approved and need no additional review. To purchase any other data processing goods or services, the User Department must obtain ITD approval.

#### **RISK MANAGEMENT ISSUES**

When departments sustain loss or damage to goods or buildings, and funding for replacement or repair is coordinated through Risk Management, the actual purchase must still be processed by the Purchasing Department. Additionally, an Inventory Form must be completed by the department and forwarded to the Inventory Liaison, so that the appropriate inventory files can be updated.

#### **AFTER-HOURS EMERGENCY PURCHASES (Used on-Demand only)**

An emergency is defined as a situation that poses a risk to life, health and safety of our citizens or employees, or is a public calamity jeopardizing county property. When an emergency situation exists, the Purchasing Agent must be contacted to ensure compliance with the Purchasing Act. In a declaration of a local state of disaster, the County Judge would be the authority to approve purchases. *Emergency*, as used in the Purchasing Act and this section, is different from *emergency* as used in the County of El Paso Policies and Procedures Manual, which defines a local state of disaster.

If an emergency need arises after regular work hours, and the dollar amount does not exceed \$50,000, each department should have written internal procedures that have been approved by the Purchasing Agent for emergency purchases.

The internal procedures should require that department employees contact the appropriate supervisor/manager/director and then the Purchasing Agent for approval. On the first working day after the purchase, the department must enter a purchase requisition and provide written documentation to the Purchasing Agent. If no procedures have been approved by the Purchasing Agent, the department must wait until the next working day to make the purchase.

Even in an emergency situation, if the amount exceeds \$50,000, the Commissioners Court, by order, must grant the exemption from formal competitive bidding.

## **VENDOR LIST**

The Purchasing Office maintains a list of vendors who have requested that they be sent notices of advertised solicitations. The vendor list is categorized by the commodity and sub-commodity codes for the goods and services that the vendor has indicated it is capable of providing. Vendors interested in participating in County solicitations may register on the County's website at [www.epcounty.com/purchasing](http://www.epcounty.com/purchasing).

As a courtesy to vendors and as a means of encouraging competition, notification of each solicitation is provided to appropriate vendors by a variety of methods including e-mail, text, facsimile transmission, and regular mail (upon request) whenever the vendor has provided appropriate contact information. The Purchasing Office also advertises solicitations in a newspaper of general circulation as required by law.

## **PREPAYMENTS, DEPOSITS, DOWN PAYMENTS AND ADVANCE PAYMENTS**

Generally prepayment is not authorized for any purchase of supplies, materials, equipment, or services. In addition, if a bid response requires a deposit, down payment, or other payment in advance of services as a stipulation of the bid contract, the bid response and bidder may be determined as irresponsible and disqualified from further consideration. Exceptions are:

- Library Materials
- Merchandise purchased from federal and state agencies
- Realty rental
- Subscriptions
- Rental fee for meeting rooms
- Tuition to an institution of higher education
- Training and Travel expenses per budget rule
- Other prepayments as authorized by the County Auditor

**Section 6**  
**SPECIFICATIONS**

**DEFINITION**

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

**PURPOSE**

The purpose of the specification is “to provide purchasing personnel with a clear guide of what to buy and to provide vendors with firm criteria of *minimum* product or service acceptability. It is the responsibility of the department to identify the specifications. A good specification should:

- Set the minimum acceptability of the good or service. The term “minimum acceptability” is key since the vendor must know the minimum standard to determine what to provide. Too high a standard could mean wasted tax dollars. Too low a standard, and the good or service may not meet the expectations of the user. The following standards are now being included with all specifications:
  - a) For goods and supplies, the bidder must have been in the business of providing the goods and supplies for the period of two years.
  - b) For software and general services, the bidder must have been in the business of providing the software or services for the period of three years.
  - c) For professional engineering services, the bidder must have been in the business of providing engineering services for the period of five years.
- Promote competitive bidding. The maximum number of responsible bidders should be able to bid to the specification. Restrictive specifications decrease competition.
- Include provisions for reasonable tests and inspections for acceptability of the good or service. The methods and timing of testing and inspection must be indicated in the specification. Tests should refer to nationally recognized practices and standards whenever possible.
- Provide an equitable award to the lowest qualified bidder. The buyer obtains goods or services that will perform to expectations, and the vendor is able to provide the goods or services at an equitable, agreed price.

While specifications may be prepared by the user department, the Purchasing Department or an outside entity, THE FINAL ACCEPTANCE OF THE SPECIFICATIONS, WILL REST WITH THE PURCHASING DEPARTMENT FOR COMPLIANCE WITH LEGAL REQUIREMENTS. This will ensure proper quality control and avoid the proliferation of conflicting specifications in the different departments of County of El Paso.



**TYPES OF SPECIFICATIONS** – There are many types of specifications depending on the requirement. Specifications may also be a combination of the different types.

Type	Description/Use
Design Specification	Detailed descriptions of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items and many services.
Performance Specification	Performance specifications have terms of required performance that describe the goods and/or services. They may include required power, strength of material, test methods, standards of acceptability and recommended practices.
Combination Specifications	Combination specifications contain elements of both design and performance specifications. Some features of each are included to allow a vendor some freedom in meeting the performance needs of County of El Paso and to require certain necessary design characteristics. This is probably the most common type of specification.
Brand-Name Specifications	Brand-name specifications list a good or service by brand name, model and other identifying specifications to limit the bidding to a single preferred product. This type of specification discourages competition and should be avoided unless the item is the only one that will satisfy County of El Paso's requirement. It is useful for purchasing replacement parts where only the brand name item will work. It should be noted that a local government might have to explain in a court of law why another brand will not work, so this type of specification should be used judiciously.
Brand-name or Equal Specifications	Brand name or equal specifications are similar to brand-name specifications, except that equal products are acceptable in place of the named brand.
Qualified Products List Specifications	Also known as approved products list specifications, these specifications are based on a list of products, identified by manufacturers' names and model numbers and are the only acceptable items. These are used when quality is a critical factor and testing other products would be too time consuming or expensive.
Standard Specifications	Standard specifications include a single specification for one or more goods or services ordered on a recurring basis with the same general purpose. The same specification is used each time an order is placed or bids are advertised. Examples include office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more detailed than one-time specifications.

*Source: Texas Comptroller's Model Purchasing Manual for Texas Cities and Counties, March 2010*

### **DEVELOPING SPECIFICATION AND SPECIFICATION SOURCES**

The first step in writing specifications should be to try to obtain an existing specification before starting to write a new one. An existing specification can provide ideas and examples that can be used to customize the specification for County of El Paso purposes. The user department should contact Purchasing for assistance in obtaining existing specifications to facilitate the specification development process. There are numerous sources for specifications such as other local

governments, professional trade associations, professional purchasing associations and user knowledge.

The County has a Specification Library on the Intranet Purchasing page. It lists specifications in Microsoft Word format for easy editing. The specifications are separated by department, however a department can use a specification from any of the departments to customize for their own purposes.

The characteristics of an effective specification include:

- Simple: Avoid unnecessary detail, but be complete enough to ensure that requirements will satisfy their intended purpose.
- Clear: Use terminology that is understandable to the department and bidders. Use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legal jargon whenever possible. Spell out acronyms.
- Accurate: Use units of measure that are compatible with industry standards. All quantities and packing requirements should be clearly identified.
- Competitive: Identify at least two commercially available brands, makes, or models (whenever possible) that will satisfy the intended purpose. Avoid un-needed "extras" that could reduce or eliminate competition and increase costs.
- Flexible: Avoid very inflexible specifications, which prevent the acceptance of a bid that could offer greater performance for fewer dollars. Use approximate values such as dimensions, weight, speed, etc. (whenever possible) if they will satisfy the intended purpose. If approximate dimensions are used, it should be within a 10 percent rule of thumb unless otherwise stated in the specifications. For example, instead of saying 17" screen, say between 15-18" screen

Departments should submit their specifications to Purchasing in a Microsoft Word format.

## Section 7

### REQUISITIONING PROCESS

#### **DEFINITION**

Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized.

The department's purchase requisition authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services. The automated requisition is for internal use and cannot be used by a department to order materials from a vendor. A requisition number is not a purchase order number!

Purchase requisitions should fully describe to the Purchasing Department what to buy, when it is required, and where the goods are to be delivered, or the services to be performed.

#### **POLICY**

County of El Paso utilizes an automated requisitioning system. Based on established budget limits, purchase requisitions are entered by the user department. Adequate budget funds must be available in the departmental line items and approved by the Auditor's Office before the Purchasing Department can proceed with the purchase of the requested goods and services.

After the Purchasing Department receives an Auditor-approved purchase requisition, it determines the appropriate procedures based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services, and other relevant factors.

Upon determining the appropriate procurement process, the Purchasing Agent or assigned representative (buyer) acting on his/her behalf will issue a purchase order to the vendor(s) for the desired goods or services. The Purchasing Agent or assigned representative is the only individual authorized to generate a printed/electronic copy of a purchase order. No other County personnel will have access or authorization to print a purchase order.

Specific instructions on entering requisitions into the purchasing software are not covered in this manual. The user department should refer to the County's training website or manual or contact the Help Desk for further information and to check for periodic training session opportunities.

The Purchasing Office classifies purchase requisitions according to the type of action and the time required for the purchase. There are four types: contract, routine, expedited, and emergency.

## **TYPES OF PURCHASE REQUISITIONS**

**CONTRACT REQUISITIONS** - Normal purchases of items ordered from existing contracts. Contract requisitions generally require one working day to process.

**ROUTINE** – Normal purchases under \$50,000 that are not under contract (i.e. “open market” requisitions) have a cycle time of three to ten (3-10) working days.

**EXPEDITED** – Open market purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases generally do not qualify as emergency purchases and are subject to all applicable bidding requirements. Expedited purchase requisitions require 1 to 3 working days to process. They are goods or services needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal work routine. **They should not be used unless absolutely required.** There are two types of expedited purchase requisitions:

- **Walk Through** – Open market purchases for goods or services needed within three working days to avoid work interruption, loss of service or significant added cost of operations. The user department should hand-carry all paperwork to the Purchasing Office immediately after entering the purchase requisition into the purchasing system.
- **Work Stoppage** – Open market purchases for goods or services needed immediately to prevent work stoppage due to unanticipated conditions. The user department should telephone or e-mail the Purchasing Office immediately upon entering the purchase requisition into the purchasing system and should also provide written documentation of the existence of a work stoppage for the contract file (written comments in the requisition or e-mail justification from department head, executive manager or designee are acceptable documentation). The Purchasing Office instructs the user department on what action to take.

**EMERGENCY** – Purchase of any goods or services needed because of an emergency condition that the Commissioners Court has ordered exempt, per applicable law. All emergency exemption orders must be processed through the Purchasing Department. The Purchasing Agent will submit these as an agenda item for the Commissioners Court approval.

- 1) Emergency items less than \$50,000 will be handled in the same manner as an expedited purchase requisition.
- 2) Emergency items greater than \$50,000 must be placed on the Commissioners Court agenda.

NOTE: “Cycle time” refers to the time between when a purchase requisition is assigned to a buyer for action and when the actual purchase order is placed with a vendor. Cycle time does not include the time required for delivery, or the time it takes for the approval process from the Auditor’s Office.

**It is the department’s responsibility to follow their requisition to make sure it is released from the Auditor’s queue. Time the requisition spends in the Auditor’s queue is not included in cycle time.**

## Section 8

### PROCEDURES FOR PURCHASES \$50,000 or LESS

#### **POLICY**

For purchases of goods and services totaling less than \$50,000, per applicable laws, the Purchasing Agent is authorized to select the exact goods or services to meet the requirements of the departments. The Purchasing Agent is authorized to select the vendor and to follow all necessary actions to conclude a contract for the purchase of the goods and services, without specific approval of the Commissioners Court. . Even so, the county has instituted procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement or for which the county receives no responsive bid.

#### **CONSIDERATIONS**

In selecting the exact goods or services requested by the departments, the Purchasing Agent must consider the following:

1. the stated needs of the department and whether the selected goods or services meet those needs;
2. available information about sources and prices of the goods and services;
3. the delivery requirements of the vendor and department; and
4. any other information that should be considered involving circumstances of the purchase.

#### **PROCEDURES**

- A. The requesting department submits a Requisition on the electronic purchasing system, and if necessary, attaches a vendor quote, internet page, or other information to provide understanding about what is being requested.
- B. The Requisition is approved by the department.
- C. Funds for the purchase are approved by the Auditor's Office.
- D. Whenever reasonable and practical, the Purchasing Agent or staff:
  1. Purchases up to \$1,000.00 – are required to obtain/solicit only one price quote. If the department submits the one quote, the Purchasing Agent reserves the right to obtain additional quotes to assure fair and reasonable competition. (either written or verbal quotes.)
  2. purchases from \$1,000.01 to \$50,000.00 - are required to obtain/solicit a minimum of (3) written quotations;
  3. annual commodity contracts from \$10,000 to \$50,000.00 are required when purchasing the same commodity line item 3 or more times in one fiscal year. Buyers shall obtain/solicit sealed responses from all interested vendors in the current database. Specifications will be more formalized utilizing current RFB/P boiler plate as needed. Permission, advertising, and court approval are not

required.

Note: If the commodity contract contains extension year options, the first year and all possible extensions will be added together to determine whether the contract exceeds the \$50,000 formal bid limit. If so, use the "Competitive Bid Requirements for Purchases Over \$50,000" section of this manual.

- E. If quality and delivery terms meet County needs, the vendor who provides the lowest responsible price will be selected. If the vendor offering the lowest price is not used, a notation for the file will be made to indicate the reason another vendor was selected. The Purchase Order is printed and sent to the Department or Vendor.

The Purchasing Agent has the authority to deviate from the policy for purchases under \$50,000 if it is in the best interests of County of El Paso and if it will facilitate specific County operations.

**CUMULATIVE COMMODITIES:**

If cumulative purchases for a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required, and an annual commodity term contract will be established. Cumulative purchases include County-wide purchases and are not limited to a single department's needs (i.e., office supplies, computer paper, uniforms, copiers, furniture, tires, etc.)

## Section 9

### COMPETITIVE BIDDING REQUIREMENTS FOR PURCHASES EXCEEDING \$50,000

#### **DEFINITIONS**

*Competitive bidding* means letting available vendors compete with each other in order to provide goods and/or services.

The term, “*formal competitive bidding*” will be used in this manual, and is generally used in public purchasing, when the bidding process is in compliance with State laws and requires approval by Commissioners Court.

The Invitation or solicitation for Bid (IFB) will be used to solicit bids exceeding \$50,000 per year from vendors in response to County of El Paso specifications and contractual terms and conditions. A returned, signed Notice of Award letter or the issuance of a Purchase Order will form the contract between County of El Paso and the vendor.

The formal competitive bidding procedures described in this section do not apply to purchases that are made in compliance with the procedures in Section 8 Procedures for purchases under \$50,000, Section 10 Competitive Proposals exceeding \$50,000, or Section 12 Purchasing of Professional Services (of any dollar amount).

#### **PURPOSE OF COMPETITIVE BIDDING**

The first purpose of competitive bidding is to ensure that public monies are spent properly, legally, and for the least cost. (This is, in fact, the primary goal of public procurement, even when purchases do not require the formal approval of the governing board.)

The second purpose is to give those qualified and responsible vendors who desire to do business with the County, a fair and equitable opportunity to do so. The use of a standard and consistent procurement process provides the public with an assurance that their tax dollars are being spent properly.

The Texas Supreme Court states, “Its purpose is to stimulate competition, prevent favoritism, and secure the best work and materials at the lowest practicable price for the best interest of the taxpayer and property owners.”

#### **COMPETITIVE BIDDING PROCEDURES**

Formal competitive bidding—which calls for formal approval by the Commissioners Court due to a required expenditure in excess of \$50,000, with few exceptions, are accomplished by the following process:

A. E-mail the following four (4) forms to the Purchasing Agent:

- 1. BID & AWARD REQUEST FORM:** The requesting department completes a Bid & Award request form. This form is available on the Intranet. This form, signed by the Official, Department Head, or Executive Manager or his designee, will serve as the initial notice of need for goods or services.

**2. BID SPECIFICATIONS:** Descriptions and/or specifications of the products or services desired. Use font: Arial 12-point. All bids will be changed to this font type to match the County's standardized bid forms that are included in every bid.

**3. 176 CONFLICT OF INTEREST FORM:** The department must list all parties within their department and/or consultants acting on behalf of their department who will be involved in evaluation of the bid. This form is available on the Purchasing webpage.

**4. CURRENT & SUGGESTED VENDORS FOR BID FORM:** The department provides the name, address, phone number, and fax number of the vendor that is currently providing the goods or services. In addition, the department provides the names of other known vendors that provide the goods or services. This form is available on the Purchasing webpage.

**B.** The Purchasing Department will review the specification, and make any recommended changes in accordance to the policies described in this manual. The specification with changes is e-mailed back to the department for final approval. **The bid will not be issued until the department approves the final version of the specification.**

**C.** The Purchasing Agent has the specification reviewed by the County Auditor's Office. ~~Specification will be sent to -and~~ County Attorney's office ~~as needed, for compliance, per Commissioner Court order dated 9/8/2014, Item #11.~~ The parties review the specification, makes additional changes if necessary in accordance with purchasing policies. Funds are also verified by the Auditor's office. The review team renders a written approval or denial on the County of El Paso Purchasing Review Form. An electronic version of the signed form is e-mailed to the department.

**D.** If funding has been authorized in the budget for the purchase, the Purchasing Department will place the item out for advertising and bid. If the purchase requires funding or transfer, the department places the item on Commissioners Court agenda for authorization to bid; The specifications should be attached to the agenda.

Sample Agenda Item: "Approve funding/transfer of funds for the purchase of \_\_\_\_\_ from the \_\_\_\_\_ account; and Approve and authorize the Purchasing Agent to advertise bids for (describe the goods or services to be bid). Specifications approved by Purchasing on \_\_\_\_\_ (date)."

**Bidding Notice:** ~~Upon Commissioners approval of the bid advertisement, I~~ the Purchasing office publishes a notice of the proposed purchase that complies with the requirements as described in applicable State law.

A notice of the intended purchase must be published at least twice within a two-week period by a newspaper of general circulation in the County, with the first day of publication occurring before the 14<sup>th</sup> day before the date of the bid opening. To ensure bidders sufficient time to complete to return the solicitation, the Purchasing Department will often extend that advertisement time, but will never advertise less than fourteen (14) days, because to do so would be a violation of the Purchasing Act.

The notice must include the following:



1. The specifications describing the goods and services to be purchased, or a statement of where the specifications may be obtained;
2. The time and place for receiving and opening bids, and
3. Whether the vendor should use lump-sum or unit pricing;
4. The type of bond required of the bidder, if any; and
5. The method of payment by the County.

**AMENDMENT TO NOTICE (Bid Extension):** The Commissioners Court, by law has authorized the Purchasing Agent to extend the bid opening date on the notice of an Invitation for Bids if an error is discovered or if the nature of the goods and services requires an extension. Commissioners Court granted extension authority to the Purchasing Agent on 12/1/2014, Item #13.

**ADDENDUMS TO THE Invitation for Bid (Bid):**

The Purchasing Agent may amend a Bid to clarify the original intent or to correct clerical errors if inquiries about the meaning of the Bid indicate the need for an addendum. Addendums to Bids are posted on the County purchasing website referencing the Bid #, numbered in order and dated. The addendum cannot change the original scope of the Bid. If the scope of the Bid has changed, Commissioners Court must approve the change in scope and a new notice must be posted. There should be at least two (2) days between the date of the last addendum and the bid opening date.

**RECEIPT OF COMPETITIVE BIDS:** The following procedures will be adhered to when receiving bids:

1. All bids will be received by the Purchasing Agent.
2. All bids will be stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department will serve as the official time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
3. No bids will be accepted after the opening time on the date of the bid opening. All bids received after the opening time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
4. The Purchasing Department will record the name of the vendor's representative submitting the bid, as well as the time and date the bid was submitted. If a bid is received by mail, express mail, or courier, the delivery method will be reflected in the record.
5. After bids are received, a secure place will be provided by the Purchasing Department for holding the bids until the opening date. The bids are to be received in a sealed envelope or box and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
6. On occasion, bids that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, another Purchasing Department staff member will be called immediately to act as a witness that the

details of the bid, particularly the price, were not reviewed and that the bid was again sealed by an employee of the Purchasing Department.

The above process will be followed in order to preclude any perception of favoritism or revealing bid prices or information. Having sealed bids publicly received and recording the submission of requested bids is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of bids.

**PUBLIC OPENING OF BIDS:** Sealed bids will be opened publicly by the Purchasing Department and will be documented. Preliminary bid tabulations will be provided to the public upon request. Copies of bids may be obtained from the Purchasing Department in accordance with all Texas Public Information Act guidelines.

The Purchasing Agent or designee will open the bids on the date, time, and place specified in the legal notice, including extensions.

**EVALUATION:** The Purchasing Department will evaluate all bids, with assistance from the user department, and County Auditor's office. -and The County Attorney's office will evaluate bids on an as-needed basis as determined by the Purchasing Agent. A recommendation concerning the lowest responsible bid will be made to Commissioners Court. The Purchasing Department will evaluate bids based on criteria written in the Bid, which may include:

1. the relative price;
2. the cost of repair and maintenance, if heavy equipment is the subject;
3. the cost of delivery and handling, if road construction materials are the subject;
4. the compliance of goods and services with specifications; and
5. the responsibility of the vendor, including the vendor's financial stability and ability to perform the contract, the vendor's safety record, if stated in the Bid, and the past performance of that vendor.
6. Additional relevant criteria, depending on the Bid.

The Purchasing Department will provide a copy of the bid/proposal results to the user department. A signed memo from the Official, Department Head, or Executive Manager of that user department acknowledging agreement with the proposed award recommendation will be included in the presentation to the Commissioners Court. Whenever the lowest bid received is not the best bid, clear justification for not selecting the low bid must be documented.

**AWARD RECOMMENDATION:** The requesting department completes Part 2 of the original Bid & Award request form and provides the name of the recommended vendor, address, and amount of award.

The Purchasing reviews the bid results and compares them to the specifications, and renders a written approval or denial of the bid award on the County of El Paso Purchasing Review Form. Certification of funds are performed by the County Auditor's Office during the review process.

**PREPARE THE REQUISITION:** Upon recommendation of award, the Department should

prepare the purchase requisition so it can be processed as soon as Commissioners Court approves the item.

**AWARD:** The Purchasing Agent will recommend bid award to the Commissioners Court in session. The Court should:

1. Award the bid to the responsible bidder who submits the lowest and best bid; or
2. Reject all bids and publish a new notice.

If two (2) responsible bidders submit the lowest and best bid, the tie bid will be broken using the following procedure: The Purchasing Agent, or designee, shall oversee a coin flip to determine the successful vendor. The buyer responsible for the bid shall flip the coin. The first vendor listed on the tabulation sheet shall be "heads." The second vendor listed on the tabulation sheet shall be "tails." One to two impartial witnesses shall be on hand to determine the results of the coin flip. All participants shall certify the results by signing the tabulation sheet or a similar document.

A contract may not be awarded to a bidder who is not the lowest bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given the opportunity to appear before the Commissioners Court to present evidence to refute the award recommendation.

After an award is made, a notice of award will be processed, with copies sent to the appropriate vendor and user departments.

**CONTRACT ADMINISTRATION:** The user department, unless it is an annual supply contract, will be responsible for monitoring and documenting contractor performance/compliance on the Vendor Performance Form. All documentation of non-compliance should be shared with the Purchasing Department. Documentation related to clarification of expected performance standards that are complied with after formal notice does not need to be provided to the Purchasing Department. If poor performance or non-compliance with the contract occurs, the department will notify Purchasing and the Purchasing Department will be responsible to initiate corrective action with the vendor.

The Purchasing Agent will take all steps related to obtaining contract compliance, but will consult with the County Attorney's Office before taking any steps towards contract suspension or termination. Before any letters, notices, or other communications related to termination or suspension are sent to the vendor, the contents of these documents must be reviewed by the County Attorney's Office as the initial steps toward potential litigation.

This aspect of the procurement process is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc., must be documented on the Vendor Performance Form. The Vendor Performance Form is available on the Purchasing Intranet page. Purchasing staff will forward the completed Vendor Performance Form to the Contract Administrator.

**REBIDDING ANNUAL CONTRACTS:** The Purchasing Department and the Contract Administrator monitors the expiration dates of all open purchase order contracts. Purchasing or the Contract Administrator should notify user department by e-mail at least sixty (60) days before contract expiration and verify whether the goods/services need to be rebid. The user

department will return the specifications/quantities sent from the Purchasing Department, with any additions, deletions, or corrections.

**ELECTRONIC RECEIPT OF BIDS:** In accordance with applicable State Law, bids may be accepted by electronic means as long as the identification, security, and confidentiality of electronic bids or proposals are protected until date and time of bid opening.

This section shall become effective upon implementation of a new Financial/Purchasing/HR software currently under consideration.

Upon effective date of electronic receipt of bids, , the County shall continue to accept bids or proposals submitted in hard-copy format, and requests for electronic copies as stated in the ~~solicitation~~solicitation.

## Section 9.1

### COMPETITIVE PROPOSALS FOR INSURANCE, HIGH TECHNOLOGY GOODS, AND SERVICES EXCEEDING \$50,000

#### DEFINITIONS

In this section, competitive proposals may be solicited through a Request for Proposals (RFP).

Formal "sealed" Requests for Proposals (RFP) will be used to procure insurance, high technology goods/services, special services of landscape maintenance, recycling, and travel management, or as defined by the Purchasing Agent that are expected to exceed \$50,000. The RFP will solicit proposals from vendors in response to the County's requirements, along with contractual terms and conditions. A formal contract, reviewed by the County Attorney's Office, must be approved by the Commissioners Court.

*"High technology" goods or services* means goods or services of a highly technical nature, including:

1. Data processing equipment, software, and hardware used in conjunction with data processing equipment;
2. Telecommunications, radio, and microwave systems;
3. Electronic distribution control systems, including building energy management systems; and
4. Technical services related to those goods and services.

#### PROCEDURES

Competitive proposals for insurance, high technology goods/services, and special services will be accomplished by the following (see Section 11 State Contracts for additional procedures that may be used when purchasing computer hardware, software, and related services):

A. E-mail the following four (4) forms to the Purchasing Agent:

1. **BID & AWARD REQUEST FORM:** The requesting department completes a Bid & Award request form. This form is available on the Intranet. This form, signed by the Official, Department Head, or Executive Manager or his designee, will serve as the initial notice of need for goods or services.
2. **RFP SPECIFICATIONS:** Descriptions and/or specifications of the products or services desired. Use font: Arial 12-point. All bids will be changed to this font type to match the County's standardized bid forms that are included in every bid.
3. **176 CONFLICT OF INTEREST FORM:** The department lists all parties within their department and/or consultants acting on behalf of their department who will be involved in evaluation of the bid. This form is available on the Purchasing webpage.

**4. CURRENT & SUGGESTED VENDORS FOR BID FORM:** The department provides the name, address, phone number, and fax number of the vendor that is currently providing the goods or services. In addition, the department provides the names of other known vendors that provide the goods or services. This form is available on the Purchasing webpage.

- B. The Purchasing Department will review the specification, and make any recommended changes in accordance to the policies described in this manual. The specification with changes is e-mailed back to the department for final approval. **The bid will not be issued until the department approves the final version of the specification.**
- C. The Purchasing Agent has the specification reviewed by the County Auditor's Office. The specification shall be reviewed by and the County Attorney's office as needed for compliance, per Commissioner Court order dated 9/8/2014, Item #11. The PR Team reviews the specification, makes additional changes if necessary in accordance with purchasing policies. Funds are also verified by the Auditor's office. The PR Team renders a written approval or denial on the County of El Paso Purchasing Review Form. An electronic version of the signed PR form is e-mailed to the department.
- D. If funding has been authorized in the budget for the purchase, the Purchasing Department will place the item out for advertising and bid. If the purchase requires funding or transfer, the department places the item on Commissioners Court agenda for authorization to bid; The specifications should be attached to the agenda.

Sample Agenda Item: "Approve funding/transfer of funds for the purchase of \_\_\_\_\_ from the \_\_\_\_\_ account; and Approve and authorize the Purchasing Agent to advertise bids for (describe the goods or services to be bid). Specifications approved by Purchasing on \_\_\_\_\_ (date)."

**NOTICE:** The Commissioners Court must approve any RFP for which there is not adequate funding approved in the budget and/or funds not verified by the Auditor. If the RFP is for high technology goods/services, the Information Technology Department must be involved in this review process.

A notice of the intended purchase must be published at least twice within a two-week period by a newspaper of general circulation in the County, with the first day of publication occurring the 14<sup>th</sup> day before the date of the RFP opening. To ensure sufficient time to complete and return RFP's to Purchasing, it will be open for requests a minimum of thirty (30) days. If necessary, advertising time can be extended or decreased, but cannot be less than fourteen (14) days, to avoid violation of the Purchasing Act.

The notice must include:

1. The specifications describing the goods/services to be purchased, or a statement where the specifications may be obtained;
2. The time and place for receiving and opening RFP's, and
3. The type of bond required of the bidder.

**AMENDMENT TO NOTICE (Bid Extension):** The Commissioners Court, by law has authorized the Purchasing Agent to extend the bid opening date on the notice of an RFP if an error is discovered or if the nature of the goods and services requires an extension. Commissioners Court granted extension authority to the Purchasing Agent on 12/1/2014, Item #13.

**ADDENDUMS TO THE RFP:**

The Purchasing Agent may amend an RFP to clarify the original intent or to correct clerical errors if inquiries about the meaning of the RFP indicate the need for an addendum. Addendums to RFPs are posted on the County purchasing website, numbered in order and dated. The addendum cannot change the original scope of the RFP. If the scope of the RFP has changed, Commissioners Court must approve the change in scope and a new notice must be posted. There should be at least two (2) days between the date of the last addendum and the bid opening date.

**RECEIPT OF COMPETITIVE PROPOSALS:** The following procedures will be adhered to when receiving proposals:

1. All proposals will be received by the Purchasing Agent.
2. All proposals will be stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department will serve as the official time clock for the purpose of identifying the date and time proposals were received in the Purchasing Department.
3. No proposals will be accepted after the opening time on the date of proposal opening. All proposals received after the opening time will be returned to the proposer with a letter from the Purchasing Agent notifying the proposer that the submitted proposal was received after the due date and time.
4. The Purchasing Department will record the name of the vendor's representative submitting the proposal, as well as the time and date the proposal was submitted. If a proposal is received by mail, express mail, or courier, the delivery method will be reflected in the record.
5. After proposals are received, a secure place will be provided by the Purchasing Department for holding the proposals until the opening date. The proposals are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department.
6. On occasion, proposals that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, The Purchasing Agent or Asst. Purchasing Agent will be called immediately to act as a witness that the details of the proposal, particularly the evaluation criteria, were not reviewed and the proposal was again sealed by an employee of the Purchasing Department.

The above process will be followed in order to preclude any perception of favoritism or revealing any proposal information. Having sealed proposals publicly received, and recording

the submission of requested proposals, is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of proposals.

**OPENING OF PROPOSALS:** Sealed proposals will be opened by the Purchasing Department and will be documented. Proposals are not opened publicly. Only the names of vendors submitting proposals will be announced. The Purchasing Agent will open the proposals on the date specified in the legal notice. The date specified in the legal notice may be extended by the Purchasing Agent if an error is discovered in the original RFP.

Proposals will be opened so as to avoid disclosure of the contents to competing vendors and will be kept secret during any negotiations. All proposals that have been submitted will be available and open for public inspection after the contract has been awarded, subject to the terms of the Texas Public Information Act.

**EVALUATION:** An Evaluation Committee will evaluate all proposals. The Evaluation Committee may consist of the user department, representative of the Auditor's Office, Chief Administrator's Office, the Purchasing Department, Information Technology Department (if IT related), and/or other department stakeholders as deemed appropriate.

Each rater receives a "Rating Sheet for Request for Proposals or Requests for Qualifications" for each proposal. The rater reads each proposal, applies their score on the rating sheet, and forwards the signed rating sheet to the Purchasing department.

All requests for proposals (RFP) must specify the appropriate evaluation criteria necessary to make an unbiased award recommendation.

The proposer that receives the highest combined score and is the highest-ranked and qualified bidder shall be recommended for award

**AWARD RECOMMENDATION:** The requesting department provides the name of the recommended proposer, address, and amount of award.

The purchasing review team reviews the proposal and costs and compares them to the specifications, and renders a written approval or denial of the award on the County of El Paso Purchasing Review Form. Certification of funds are performed by the County Auditor's Office during the review process.

**NEGOTIATION:** All negotiations will be supervised by the Purchasing Department. Any conversations with vendors must be in coordination with the Purchasing Agent, and a member of that department should be present for all discussions with vendors. Departments must not contact vendors. To do so is a violation of the El Paso County Code of Ethics.

All vendors must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals and submittal of a "best and final" offer.

**CONTRACT AWARD:** The award of the contract shall be made by the Commissioners Court to the responsible vendor whose proposal is determined to be the best evaluated offer resulting from negotiation, if necessary, and taking into consideration the relative importance of price and other evaluation factors set forth in the Request for Proposals (RFP).

**CONTRACT ADMINISTRATION:** The user department will be responsible for monitoring and



documenting contractor performance/compliance on the Vendor Performance Form. All documentation of non-compliance must be shared with Purchasing. Documentation related to clarification of expected performance standards that are complied with after problem notification, need not be provided to the Purchasing Department. If poor performance or non-compliance with the contract is evidenced and provided to Purchasing, Purchasing will be responsible to initiate corrective action with the vendor.

The Purchasing Agent will take all steps related to obtaining compliance with the contract, but will consult with the County Attorney's Office before taking any steps toward suspension or termination of the contract. Before any letters, notices, and other communications related to termination or suspension are sent to the vendor, the contents of these should be reviewed by the County Attorney's Office and the Auditor's Office as the initial steps toward potential litigation.

This aspect of the County procurement process is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific non-compliance issues, dates, locations, examples, etc., must be documented on the Vendor Performance Form. The Vendor Performance Form is available on the Purchasing Intranet page. The Vendor Performance Form is sent to the Contract Administrator.

## Section 9.2

### CONSTRUCTION PURCHASING

#### **PURCHASING STATUTES**

The County of El Paso shall conduct procurement of construction projects pursuant to Texas Government Code Chapter 2269, and Texas Local Government Code Chapter 262 and 271. The Commissioner Court may utilize competitive bidding, competitive sealed proposals, reverse auction procedure, design-build contracts, a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager, or a job order contract for the minor repair, rehabilitation or alteration of a facility.

There is an exemption from the competitive requirements for, among other things, purchases that must be made in the case of public calamity, to preserve the property of the County or to protect public health or safety.

#### **PURCHASING SUPERVISION**

Construction purchasing will be consistent with other procurement procedures as defined in this manual and in accordance with the pertinent statutes. The Purchasing Agent will oversee all construction purchases, and all competitive bids will be accompanied by the following:

- A. E-mail the following four (4) forms to the Purchasing Agent:
  1. **BID & AWARD REQUEST**: The requesting department completes a Bid & Award request form. This form is available on the Intranet. This form, signed by the Official, Department Head, or Executive Manager or his designee, will serve as the initial notice of need for goods or services.
  2. **BID SPECIFICATIONS**: Specifications and any related drawings shall be submitted. Specifications can be in Word or PDF format. If submitted in PDF, the department will be responsible for making any changes to the bid as requested by the Purchasing Agent.
  3. **176 CONFLICT OF INTEREST FORM**: The department lists all parties within their department and/or consultants acting on behalf of their department who will be involved in development or evaluation of the bid. This form is available on the Purchasing webpage.
  4. **CURRENT & SUGGESTED VENDORS FOR BID FORM**: The department provides the name, address, phone number, and fax number of any suggested contractors. This form is available on the Purchasing webpage.
- B. The Purchasing Department will review the specification, and make any recommended changes in accordance to the policies described in this manual. The specification with changes is e-mailed back to the department for final approval. **The bid will not be issued until the department approves the final version of the specification.**
- C. The Purchasing Agent, Auditor's Office, and County Attorney's office may review the specification, makes additional changes if necessary in accordance with purchasing policies.

Funds are also verified by the Auditor's office. The Purchasing review team renders a written approval on the County of El Paso Purchasing Review Form. An electronic version of the signed form is e-mailed to the department.

- D. If funding has been authorized in the budget for the purchase, the Purchasing Department will place the item out for advertising and bid. If the purchase requires funding or transfer, the department places the item on Commissioners Court agenda for authorization to bid; The specifications should be attached to the agenda.

Sample Agenda Item: "Approve funding/transfer of funds for the purchase of \_\_\_\_\_ from the \_\_\_\_\_ account; and Approve and authorize the Purchasing Agent to advertise bids for (describe the goods or services to be bid)\_\_\_\_. Specifications approved by Purchasing on \_\_\_\_\_ (date)."

**BIDDING NOTICE:** The Purchasing Department will publish the legal advertisement for bid, which must include the following:

1. The specifications describing the item to be purchased or a statement of where the specifications may be obtained;
2. The time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;
3. Whether the bidder should use lump-sum or unit pricing;
4. The method of payment by the county; and
5. The type of bond required by the bidder.

The legal notice must be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation in County of El Paso, with the date of the first publication fourteen (14) days before the date set for the public bid opening. Because of the pre-bid job walk and the complexity of the require bid forms, typical construction projects are due 4-6 weeks after first being advertised.

**AMENDMENT TO NOTICE (Bid Extension):** The Commissioners Court, by law has authorized the Purchasing Agent to extend the bid opening date on the notice of a bid if an error is discovered or if the nature of the goods and services requires an extension. Commissioners Court granted extension authority to the Purchasing Agent on 12/1/2014, Item #13.

**ADDENDUMS TO THE BID:**

The Purchasing Agent may amend a bid to clarify the original intent or to correct clerical errors if inquiries about the meaning of the bid indicate the need for an addendum. Addendums to bids are posted on the County purchasing website, numbered in order and dated. The addendum cannot change the original scope of the bid. If the scope of the bid has changed, Commissioners Court must approve the change in scope and a new notice must be posted. There should be at least five (5) days between the date of the last addendum and the bid opening date.

**BONDING REQUIREMENTS:** No bonds may be required for construction contracts that are less than \$50,000.

**BID BONDS:**

For a construction project on bid price over \$50,000, the contractor shall furnish, with the bid, a cashier's check or bidder's bond payable to County of El Paso in an amount of not less than five percent (5%) of the largest possible total of the bid submitted, and is subject to forfeit in the event the successful bidder fails to execute the contract documents within ten (10) days after the contract has been awarded.

**PERFORMANCE BONDS:** For all contracts in excess of \$100,000 for the construction, repair, or alteration of a public work, or the prosecution of completion of any public work, the contractor, before commencing work, must execute a performance bond that:

1. is payable to County of El Paso, Texas;
2. is in the full amount of the contract;
3. is executed upon faithful performance of the work in accordance with the plans, specifications, and contract documents;
4. is solely for the protection of the County;
5. is executed by a corporate surety or sureties in accordance with the Insurance Code; and
6. is in a form approved by Commissioners Court.

Any performance bond that is furnished by a contractor in attempted compliance with the requirements of Texas Government Code Annotated, Ch. 2253, will be construed as in conformity with that chapter in relation to rights created, limitations on the bond, and remedies provided.

**PAYMENT BONDS :** For all contracts in excess of \$50,000 for the construction, repair, or alteration of a public work, or the prosecution of completion of any public work, the contractor, before commencing work, must execute a payment bond that:

1. is solely for the protection of all claimants supplying labor and materials in the performance of work provided in the contract;
2. is payable to County of El Paso, Texas, for the use of these claimants;
3. is in the full amount of the contract;
4. is executed by a corporate surety or sureties in accordance with the Insurance Code; and
5. is in a form approved by Commissioners Court.

Payment bonds must be effective from commencement of performance until the end of the fourth month after all items of work for the project are completed, unless releases are obtained from all subcontractors and materialmen. Any payment bond that is furnished by a contractor in attempted compliance with the requirements of Texas Government Code, Ch. 2253, will be construed as in conformity with that chapter in relation to rights created, limitations on the bond, and remedies provided.

**INSURANCE REQUIREMENTS**

The Contractor shall comply with the County's insurance requirements as shown in the "Forms" section of this manual. The Contractor/Vendor is responsible for making sure any sub-contractor(s)

performing work under an agreement has the required insurance coverage(s) and supplies County of El Paso with the proper documents verifying the coverage.

**PREVAILING WAGES**

All construction bids shall be in conformance with prevailing wage laws and requirements.

**EXAMINATION OF EXISTING PREMISES:** The contractor must by careful examination satisfy himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the County, either before or after the execution of a contract, shall affect or modify any of the terms or obligations contained in the contract. The bid shall be based only on the specifications, and any addendums supplemented by the affecting conditions.

**INDEMNIFICATION:** The contractor must agree to fully indemnify and save whole and harmless the County of El Paso from all costs or damage arising out of any real or asserted claim or cause of action against it of whatsoever kind of character and, in addition, from any and all costs or damages arising out of any wrongs, injuries, demands or suits for damages, either real or asserted, claimed against it that may be occasioned by any act, omission, neglect, or misconduct of the said contractor, his agents, servants, and employees.

**PRE-BID CONFERENCE:** Purchasing may schedule a mandatory or non-mandatory pre-bid conference and will assist in conducting the conference to the following extent:

1. Have all representatives sign the attendance roster.
2. Provide a brief introduction describing the project title, magnitude, and performance period.
3. Indicate whether there have been any addenda issued and, if so, direct them to the County website Purchasing page.
4. Discuss the role of Purchasing in the procurement and administration process.
5. Have the project engineer or architect discuss the specifics of the project to include review of the plans and specifications
6. Allowing for a question and answer session.
7. Determine any issues discussed that require issuance of an addendum. All addenda will be issued by the Purchasing Department and will only be issued if there are at least five (5) days between the date of the addendum and the specified opening date. Shorter time frames will automatically delay the bid opening by at least one (1) full week. The user department will provide Purchasing with the technical documentation (i.e., changes/additions to the plans or specifications). Purchasing will be responsible for distributing the addendum to all applicable parties via the website.
8. Some County facilities may require the prospective vendor's employees to submit to and pass a background check prior to entering or working in the Sheriff's department or county jail.

**RECEIPT OF COMPETITIVE BIDS:** The following procedures will be adhered to when receiving bids:

1. All bids will be received by the County of El Paso Purchasing Department.
2. All bids will be stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department will serve as the OFFICIAL time clock for the purpose of identifying the date and time bids were received in this office.
3. NO BIDS will be accepted after the opening time on the date of bid opening. All bids received after the opening time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying them that the bid submitted was received subsequent to the due date and time.
4. After the bids are received, a secure place will be provided by the Purchasing Department for holding the bids until the bid opening. All bids are to be received sealed, and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
5. On occasion, bids that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, the Purchasing Agent or Asst. Purchasing Agent will be called immediately to act as a witness that the details of the bid, particularly the price, were not reviewed and the bid was again sealed by an employee of the Purchasing Department.

The above process will be followed in order to preclude any perception of favoritism or revealing bid prices or information. Having sealed bids publicly received and recording the submission of requested bids is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of bids.

**PUBLIC BID OPENINGS:** Sealed bids will be opened publicly by the Purchasing Department and will be documented. Preliminary bid tabulations will be provided to the public upon request. The Purchasing Department and the user department will determine who will be responsible for creating the tabulation and, if it is the user department, then the user department will provide a copy to the Purchasing Department for distribution to the general public. For those bids that contain several line items, a tabulation that includes the total bid amount, excluding individual line items amounts, per bidder, can be provided immediately after the bid opening. Requests for an all-inclusive bid tabulation will be honored after it is completed and should require a minimum of five (5) business days.

The Purchasing Agent will open the bids on the date, time, and place specified in the notice. The date specified in the legal notice may be extended by the Purchasing Agent if an error is discovered in the original specifications and an addendum is issued to make the necessary corrections. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

**BID EVALUATIONS:** The Purchasing Department will evaluate all bids, with assistance from the user department.

Evaluation of bids will be based on the following factors:

1. the relative prices of the bids, including the cost of repair and the cost of delivery and hauling;
2. compliance of goods and services offered with the bid specifications; and
3. the responsibility of the vendor, including the vendor's safety record, if the Commissioners Court has adopted a definition of safety that is included in the bid, and the vendor's past performance.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bidder must be documented to the Court. This recommendation will be supported by clear and concise documentation from the user department that explains the rationale for awarding to other than the lowest bidder. A joint review of the bid by the user department, the Purchasing Department, Auditor's office, and County Attorney's office is required.

**REVIEW OF AWARD RECOMMENDATION:** The requesting department completes Part 2 of the original Bid & Award request form and provides the name of the recommended vendor, address, and amount of award.

The PR Team reviews the bid results and compares them to the specifications, and renders a written approval or denial of the bid award on the County of El Paso Purchasing Review Form. Certification of funds are performed by the County Auditor's Office during this process. The Purchasing Department will be responsible for placing the item on the agenda for Commissioners Court approval. Purchasing will include a signed memo from the user department stating bid acceptance and any other documentation as agenda backup material.

**CONTRACT AWARD:** The Purchasing Department will recommend the contract award to the Commissioners Court in session. The Court shall:

1. Award the contract to the responsive and responsible bidder who submits the lowest and best bid; or
2. Reject all bids and publish a new legal notice.
3. Other appropriate action as determined by the individual bid.

If two (2) responsive and responsible bidders submit the lowest and best bid, the Purchasing Agent will determine the award recommendation in accordance with the law. .

A contract may not be awarded to a bidder who is not the lowest responsive and responsible bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence to dispute that recommendation.

The department will coordinate drafting of the contract with the County Attorney's office and the vendor. The department will request the Commissioners Court to authorize the County Judge will sign the contract on behalf of the County, and the Purchasing Agent or designee will return the bid bonds of any contractor not awarded a contract.

A contract entered into in violation of the notice provisions is contrary to public policy and is void.

**CONTRACT ADMINISTRATION:** The user department will be responsible for monitoring and documenting contractor performance/compliance and will provide Purchasing with copies of the Vendor Performance Form to keep the Purchasing Department apprised of all performance/compliance issues. Discussions that explain the interpretation of the specifications may be dealt with verbally or in writing by the user department. If poor performance or non-compliance with the contract is experienced, the user department will be responsible to initiate written corrective action with the contractor. Purchasing will be provided an advance copy of any written correspondence directing correction of a discrepancy. The user department will solicit Purchasing to initiate corrective action, in consultation with the user department, when the user department cannot

resolve any conflict through correspondence.

Only the user department's project manager, Public Works director or the Purchasing Agent has the authority to give directions to the contractor, but cannot change the contract terms without approval of Commissioners Court.

The Public Works Department will take all preliminary steps related to correcting non-compliance with the contract, but must consult with the County Attorney's Office before taking any steps toward suspension or termination of the contract unless emergency, life safety, or property damage issues require immediate temporary work stoppage. Before any letters, notices, and other communications related to termination or suspension are issued, the contents of these must be reviewed by the County Attorney's Office, as the initial steps toward potential litigation.

Documentation of contractor performance is often overlooked and is, perhaps, one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, examples, etc., must be documented.

Contract administration duties shall include, but not be limited to, the following activities. Unless otherwise noted, the following are responsibilities of the Public Works Department:

1. Schedule and assist in conducting the pre-construction conference.
2. Maintain a comprehensive, neat, and orderly contract file that includes all documentation and forms relative to the project.
3. Ensuring contractor's performance bond and payment bonds are received before issuing the Notice-to-Proceed.
4. Monitoring the continued insurance coverage and obtaining updated certificates on a timely basis.
5. Receive and review a copy of the contractor's program schedule, ensuring that it is submitted within the period as specified in the contract specifications.
6. Ensure contractor submittals are provided to the County as prescribed by the submittal schedule established during the pre-construction conference.
7. Receive and review copies of contractor payrolls to ensure payments made to contractor employees are in accordance with the prevailing wage rate classification by trade included in the contract.
8. Perform periodic site visits to the construction site to perform spot labor interviews to ensure contractor compliance with prevailing labor laws.
9. Periodically review copies of contractor invoices for accuracy. Invoices are to be verified against progress reports, when applicable, with any discrepancies being reported to the contractor and user department for resolution.
10. Correspondence: Discussions that merely explain the interpretation of specifications may be dealt with verbally or in writing by the user department. All correspondence concerning major issues involving non-compliance, between the contractor and the County, a copy should be sent to the Purchasing Agent. This will ensure that Purchasing is aware of any directives being issued to the contractor or any potential problems that may occur in regard to contract performance.



**CHANGE ORDERS:**

- A. Any change orders that increase the cost or change the scope of the contract must be approved by the Commissioners Court, unless that authority was previously delegated to the Public Works Director by Commissioners Court. The Public Works Department will submit the agenda request to the Purchasing Agent. The Purchasing Agent will have the request reviewed by the County Auditor, ~~County Attorney's office,~~ and Contracts Administrator. Change Orders will be reviewed by the County Attorney's office as needed. Upon approval, department will obtain Commissioners Court for approval of the change order.
- B. Negotiations of change orders, particularly those that result in an increase in contract price or performance period, or change the scope of the project, will require that Purchasing be notified on a timely basis so the appropriate action can be taken. Purchasing shall always be provided with a copy of the proposed change order, with all available supporting documentation.
- D. No change order will be issued until it is determined that the necessary funds are budgeted and available, and the appropriate backup documentation has been reviewed.
- E. A record of any change order negotiations shall be kept by the user department ~~and by the County Attorney's office.~~

## Section 10

### PURCHASING OF PROFESSIONAL SERVICES

#### **INTRODUCTION**

This is the most difficult section to explain due to the various laws which define (or do not define) professional services and which dictate how these services are to be purchased. The two (2) principal laws with which the Purchasing Agent must comply when procuring professional services are the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and the County Purchasing Act.

There are two (2) kinds of professional services:

1. Those professional services specifically defined under the Professional Services Procurement Act; and
2. Those "other" professional services that are not specifically defined under either the Professional Services Procurement Act or the County Purchasing Act and which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent must rely on court cases and Attorney General opinions to determine what services are included in these "other" professional services.

#### **PURPOSE**

The Purchasing Department may contract for professional services only if funds are budgeted for that purpose and confirmed by the Auditor's Office, or the solicitation is approved by the Commissioners Court.

#### **PROFESSIONAL SERVICES PROCUREMENT ACT**

#### **DEFINITION**

Professional services are defined in the Professional Services Act as:

1. Those within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, or professional engineering as defined by the laws of the State of Texas;
2. Those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, or professional engineer in connection with their professional employment or practice.

The Act states that contracts for the purchasing of these professional services may not be awarded on the basis of bids or prices. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

## **REQUEST FOR QUALIFICATIONS (RFQ)**

To ensure vendors a fair and equal opportunity to do business with County of El Paso, and to ensure that the services of the most qualified professional are obtained, the Commissioners Court has directed that professional services be purchased by using the Request for Qualifications (RFQ) process.

### **PROCEDURES – For services that exceed \$50,000:**

- A. E-mail the following four (4) forms to the Purchasing Agent:
1. **BID & AWARD REQUEST:** The requesting department completes a Bid & Award request form. This form is available on the Intranet. This form, signed by the Official, Department Head, or Executive Manager or his designee, will serve as the initial notice of need for goods or services.
  2. **RFQ SPECIFICATIONS:** Descriptions and/or specifications of the services desired. Use font: Arial 12-point. All documents bids will be changed to this font type to match the County's standardized bid forms that are included in every RFQ.
  3. **176 CONFLICT OF INTEREST FORM:** The department lists all parties within their department and/or consultants acting on behalf of their department who will be involved in evaluation of the bid. This form is available on the Purchasing webpage.
  4. **CURRENT & SUGGESTED VENDORS FOR BID FORM:** The department provides the name, address, phone number, and fax number of the vendor that is currently providing the services. In addition, the department provides the names of other known vendors that provide the services. This form is available on the Purchasing webpage.
- B. The Purchasing Department will review the specification, and make any recommended changes in accordance to the policies described in this manual. The specification with changes is e-mailed back to the department for final approval. **The RFQ will not be issued until the department approves the final version of the specification.**
- C. The Purchasing Agent has the specification reviewed by the County Auditor's Office and ~~The County Attorney's office shall review on an as-needed basis for compliance, per Commissioner Court order dated 9/8/2014, Item #11.~~ The purchasing review team reviews the specification, makes additional changes if necessary in accordance with purchasing policies. Funds are also verified by the Auditor's office. The review team renders a written approval or denial on the County of El Paso Purchasing Review Form. An electronic version of the signed form is e-mailed to the department.
- D. If funding has been authorized in the budget for the purchase, the Purchasing Department will place the item out for advertising and bid. If the purchase requires funding or transfer, the department places the item on Commissioners Court agenda for authorization to bid; The specifications should be attached to the agenda.

Sample Agenda Item: "Approve funding/transfer of funds for the purchase of \_\_\_\_\_ from the \_\_\_\_\_ account; and Approve and authorize the Purchasing Agent to advertise bids for (describe the goods or services to be bid) \_\_\_\_\_. Specifications approved by Purchasing on \_\_\_\_\_ (date)."

**NOTICE:** The Commissioners Court must approve advertising for any RFQ for which there is not adequate funding approved in the budget and/or funds not verified by the Auditor.

A notice of the intended purchase must be published at least twice within a two-week period by a newspaper of general circulation in the County, with the first day of publication occurring the 14<sup>th</sup> day before the date of the RFQ opening. To ensure sufficient time to complete and return RFQ's to Purchasing, it will be open for requests a minimum of thirty (30) days. If necessary, advertising time can be extended or decreased, but cannot be less than fourteen (14) days, to avoid violation of the Purchasing Act.

The notice must include:

1. The specifications describing the services to be purchased, or a statement where the specifications may be obtained;
2. The time and place for receiving and opening RFQ's, and
3. The type of bond required of the bidder.

**AMENDMENT TO NOTICE (Bid Extension):** The Commissioners Court, by law has authorized the Purchasing Agent to extend the bid opening date on the notice of an RFQ if an error is discovered or if the nature of the goods and services requires an extension. Commissioners Court granted extension authority to the Purchasing Agent on 12/1/2014, Item #13.

**ADDENDUMS TO THE RFQ:**

The Purchasing Agent may amend an RFQ to clarify the original intent or to correct clerical errors if inquiries about the meaning of the RFQ indicate the need for an addendum. Addendums to RFQs are posted on the County purchasing website, numbered in order and dated. The addendum cannot change the original scope of the RFQ. If the scope of the RFQ has changed, Commissioners Court must approve the change in scope and a new notice must be posted. There should be at least two (2) days between the date of the last addendum and the bid opening date.

**RECEIPT OF QUALIFICATIONS:** The following procedures will be adhered to when receiving qualifications:

1. All proposals will be received by the Purchasing Agent.
2. All proposals will be stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Department will serve as the official time clock for the purpose of identifying the date and time proposals were received in the Purchasing Department.
3. No proposals will be accepted after the opening time on the date of proposal opening. All proposals received after the opening time will be returned to the proposer with a letter from the Purchasing Agent notifying the proposer that the submitted proposal was received after the due date and time.
5. The Purchasing Department will record the name of the vendor's representative submitting the proposal, as well as the time and date the proposal was submitted. If a proposal is received by mail, express mail, or courier, the delivery method will be reflected in the record.

6. After proposals are received, a secure place will be provided by the Purchasing Department for holding the proposals until the opening date. The proposals are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department.
7. On occasion, proposals that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, the Purchasing Agent or Asst. Purchasing Agent will be called immediately to act as a witness that the details of the proposal, particularly the evaluation criteria, were not reviewed and the proposal was again sealed by an employee of the Purchasing Department.

The above process will be followed in order to preclude any perception of favoritism or revealing any proposal information. Having sealed proposals publicly received, and recording the submission of requested proposals, is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of proposals.

**OPENING OF QUALIFICATIONS:** Sealed qualifications will be opened by the Purchasing Department and will be documented. Qualifications are not opened publicly. Only the names of vendors submitting proposals will be announced. The Purchasing Agent will open the proposals on the date specified in the legal notice. The date specified in the legal notice may be extended by the Purchasing Agent if an error is discovered in the original RFP.

Qualifications will be opened so as to avoid disclosure of the contents to competing vendors and will be kept secret during any negotiations. All proposals that have been submitted will be available and open for public inspection after the contract has been awarded. Trade secrets and confidential proprietary information contained in the proposals, and identified as such, will be kept closed pending a ruling by Texas Attorney General.

#### **RFQ EVALUATION AND AWARD PROCESS**

When procuring architectural or engineering services, County of El Paso will use a two-step selection process.

**EVALUATION:** An Evaluation Committee will evaluate all proposals. The Evaluation Committee may consist of the user department, the Auditor's Office, Chief Administrator's Office and the Purchasing Department and/or other departments as appropriate. If services are less than \$50,000, the user department may serve as the evaluation committee; however the Purchasing Department reserves the right to add additional evaluators as needed.

Each rater receives a "Rating Sheet for Request for Proposals or Requests for Qualifications" for each proposal. The rater reads each proposal, applies their score on the rating sheet, and forwards the signed rating sheet to the Purchasing department.

All requests for qualifications (RFQ) must specify the appropriate evaluation criteria necessary to make an unbiased award recommendation.

The proposer that receives the highest combined score from all the raters shall be recommended for award.

**REVIEW OF AWARD RECOMMENDATION:**  
**(This step shall be followed for procurements \$50,000 and over. If less than \$50,000, proceed**

**to “NEGOTIATION” below.)**

The requesting department completes Part 2 of the Bid & Award request form and provides the name of the recommended proposer, address, and amount of award.

The PR Team reviews the qualifications and compares them to the specifications, and renders a written approval or denial of the award on an County of El Paso Purchasing Review Form.

**SELECTION AWARD:** The Purchasing Agent shall make a recommendation to Commissioners Court for award and authorization to enter into negotiations with the highest ranked (most qualified) proposer.

If any contract is entered into with one of the above mentioned professionals on the basis of a competitive bid (prices), it is contrary to State law and County policy, and is void.

**AWARDING TO A PROFESSIONAL POOL**

If, as a result of an RFQ, County of El Paso enters into contracts with more than one (1) qualified professional so that there are several professionals under contract to provide services as needed, thereby creating a pool of professionals, then the user department must ensure that an RFQ is distributed at least once every four (4) years in order that newly qualified professionals may be added to the pool.

Unless specifically exempted by the Commissioners Court, all professional services anticipated to cost over \$50,000 will be procured using the formal RFQ process. Any exemption situations will be submitted to the Commissioners Court by the Purchasing Agent. Unless there is an urgent need for the services, exemptions will be submitted to the Commissioners Court for approval before selecting and negotiating with any vendor.

**NEGOTIATION:** The Purchasing Agent and the Department will then enter into negotiations on a contract at a fair and reasonable price. All negotiations will be supervised by the Purchasing Department. Any conversations with vendors must be in coordination with the Purchasing Agent, and a member of that department should be present for all discussions with vendors.

If County of El Paso is unable to negotiate a satisfactory contract with the most highly qualified vendor, negotiations will formally end with that person or firm. The Purchasing Agent will notify the consultant in writing that negotiations have formally ended. The next most highly qualified vendor will then be asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

**CONTRACT AWARD AND AUTHORIZATION FOR COUNTY JUDGE TO SIGN:** Upon reaching a mutual agreement on the cost for services, the department shall make a recommendation to Commissioners Court for authorization for the County Judge to sign the contract.

**CONTRACT ADMINISTRATION:** The user department will be responsible for monitoring and documenting contractor performance/compliance on the Vendor Performance Form. All documentation of non-compliance must be shared with Purchasing. Documentation related to clarification of expected performance standards that are complied with after problem notification, need not be provided to the Purchasing Department. If poor performance or non-compliance with the contract is evidenced and provided to Purchasing, Purchasing will be responsible to initiate corrective action with the vendor.

The Purchasing Agent will take all steps related to obtaining compliance with the contract, but will consult with the County Attorney's Office before taking any steps toward suspension or termination of the contract. Before any letters, notices, and other communications related to termination or suspension are sent to the vendor, the contents of these should be reviewed by the County Attorney's Office and the Auditor's Office as the initial steps toward potential litigation.

This aspect of the County procurement process is often overlooked and is perhaps one of the most important. To enforce contractual terms, documentation of specific non-compliance must be available. Specific non-compliance issues, dates, locations, examples, etc., must be documented on the Vendor Performance Form. The Vendor Performance Form is available on the Purchasing Intranet page. The completed Vendor Performance Form is forwarded to the Contract Administrator.

**Section 11**  
**COOPERATIVE PURCHASES**

**INTRODUCTION**

County of El Paso may cooperate with other units of government to consolidate purchasing needs and utilize cooperative contracts. The County participates in the purchasing programs of the State of Texas, Texas Procurement and Support Services (TXMAS), and other governmental cooperatives as recognized in Texas and the United States.

**STATE CONTRACT PURCHASES**

**AUTHORITY**

Applicable State laws regarding Cooperative Purchasing including, Sections 271.081 through 271.083 of the Texas Local Government Code and other laws as may apply.

**OFFICIAL REPRESENTATIVE**

The Purchasing Agent is designated to act for County of El Paso at the direction of the Commissioners Court in all matters relating to the cooperative purchasing program, including the purchase of goods/services from any vendor under contract. County of El Paso is responsible for making direct payments to the vendor. If the cooperative is other than a State of Texas cooperative entity, the County must register as a participant in the cooperative as approved by Commissioners Court.

**CONTRACT AWARD**

The award of any contract from the State contracts catalog, including the Department of Information Resources (DIR) as well as Purchasing Cooperatives including but not limited to, BuyBoard, and the Cooperative Purchasing Network (TCPN), shall be in writing, approved and signed by either the Purchasing Agent—if less than \$50,000—or the Commissioners Court—if more than \$ 50,000—prior to any services being rendered.

**INTERLOCAL PURCHASES**

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and other applicable laws authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. A local government that purchases goods and any services reasonably required for the installation, operation, or maintenance of those goods under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and their services. The County has a variety of interlocal agreements.

All interlocal purchases of any dollar amount require approval by the Commissioners Court. These interlocal agreements will then be kept on active file status in the Purchasing Department.



## Section 12

### SOLE SOURCE or EXEMPTIONS TO THE COMPETITIVE BID PROCESS

#### **EXEMPTIONS AVAILABLE THROUGH THE PURCHASING ACT**

Certain goods and services can be exempt from the competitive bid process if the Commissioners Court orders the purchase exempt and there is statutory authority for the exemption. State Laws lists in detail all the circumstances when exemptions are available for purchases made from current funds, bond funds, or through warrants. The following is a comprehensive list of these circumstances:

1. Goods and services that must be purchased in a case of public calamity, if it is necessary to make the purchase promptly to relieve the necessity of the citizens, or to preserve the property of the County.
2. Goods and services necessary to preserve or protect the public health or safety of the residents of the County.
3. Goods and services necessary because of unforeseen damage to public property.
4. Personal or professional service.
5. Work performed and paid by the day, as the work progresses.
6. Any land or right of way.
7. Goods and services that can only be obtained from one source, including:
  - a) Goods and services for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
  - b) Films, manuscripts, or books;
  - c) Electric power, gas, water, and other utility services; and
  - d) Captive Replacement parts.
8. Food goods.
9. Personal property sold at auction by a state-licensed auctioneer, in a going-out-of-business sale held in compliance with the Business and Commerce Codes, or by a political subdivision, state agency, or federal government entity.
10. Work performed under a community and economic development contract.
11. Renewal of a lease or equipment maintenance agreement – Can only renew for 1 additional year.

### **PROPERTY SOLD AT AUCTION**

State laws address the sale of personal property sold at auction by a State-licensed auctioneer.

The opportunity exists for potential savings to be realized by the County and Precincts if certain used cars, trucks, road/construction equipment are purchased at auction by the Purchasing Agent as allowed by law.

### **PURCHASES MADE AT AUCTION**

All purchases at auction will be made by the Purchasing Agent after authorization from the departments/precincts to participate in this type of procurement process.

Before such equipment were procured, determinations are to be made as to the appropriate sale value, whether the equipment has been maintained properly, the probable useful service life remaining, and whether a significant cost savings could result.

- a) Procedure - Written or verbal notification must be submitted to the Purchasing Agent before attendance at auction will occur. Used equipment to be purchased as requested by certain departments/precincts must have previous budget approval for each expenditure.

## Section 13

### CREDIT CARD – PROCUREMENT CARD PROCEDURES

#### PURPOSE

To establish a methodology for the limited use of credit cards issued to the Purchasing Department to make purchases of goods from companies that will not accept Purchase Orders.

#### GENERAL

The Purchasing Department may determine that an internet website offers the lowest price for items, or the lowest price can be obtained from a local store that will not accept purchase orders. In these cases, the Purchasing Department has been issued 1-2 credit cards for the exclusive use of internet website buying or local store buying.

#### A. PROCEDURES

1. All Purchasing Department staff who have access to, utilize, or check out the credit card shall read and sign the Credit Card User's Agreement form.
2. The department submits their requisition. Funds are verified by the Auditor's office.
3. Buyers will follow established purchasing procedure for purchases below \$1,000; Buyers will obtain 3 informal bids for purchases \$1000.01 – 5,000.
4. The Purchasing Department will keep 1-2 credit cards under a secure lock in the Purchasing Department. The credit cards have the name "County of El Paso" on the card. No name is on the card.
5. Requests for a credit card purchase in excess of \$5,000 shall receive permission from the Purchasing Agent provided availability of funds is certified by the County Auditor.
6. If the Buyer determines the lowest bidder is an internet website or a local store that will not accept purchase orders, the Buyer will "check out" the credit card by signing it out in the log book. The purchase will be made in one of three ways:
  - a) The Buyer will directly make the credit card purchase with the vendor on the phone or on the website;
  - b) The Buyer will give the credit card to a member of the Purchasing Department Supply division staff. The Supply staff member will go to the local store or be accompanied by the department to buy the items with the credit card. (The Purchasing Supply staff member must show County ID to the vendor); or
  - c) The Buyer will give the credit card to the employee who will shop on behalf of the using department. The user will sign the Credit Card User's Agreement form. The user will go shopping at the local store to buy the authorized items. Upon return, the user, must:
    - Sign and print their name on the receipt and give the receipt to the Purchasing Department Buyer.

- The Buyer will verify the receipt has the correct items and will complete the purchase order as appropriate.

7. Use of the procurement card shall be limited to the following conditions:

- i. The total value of a transaction shall not exceed the County single purchase of \$1,000.00 with one bid obtained; \$5,000 with three bids obtained.
- ii. All items purchased shall be available immediately at time of procurement card use, with no backordering allowable.
- iii. Payment for a purchase will not be split into multiple transactions to stay within the single purchase limit.
- iv. Procurement card purchases for meals, travel, or hotel expenses generally will not be allowed on the Procurement Card. Users should refer to the County travel policy. Any other situations for transactions will be handled on an individual basis and must be approved by the Purchasing Agent provided sufficient availability of funds is certified by the County Auditor.
- v. Cardholder shall inform the vendor that goods/services are on a tax-exempt status.

**B. UNAUTHORIZED PROCUREMENT CARD USE**

1. The procurement card SHALL NOT BE USED for the following:
  - a) Personal purchases.
  - b) A purchase that exceeds the purchase limit established by the Commissioners Court.
  - c) Entertainment expense.
  - d) Cash advances.
  - e) Telephone calls/monthly service.
2. A cardholder who makes unauthorized purchases, carelessly uses the procurement card, or fails to turn in the appropriate documentation shall be liable for the total dollar amount of such unauthorized purchases, plus any administrative fee charged by the bank in connection with the misuse. The cardholder will also be subject to disciplinary action and potential termination from his/her job.
3. A Buyer that repeatedly forgets or does not sufficiently complete the credit card check out log will have their access to the credit card revoked.

COUNTY OF EL PASO - CREDIT CARD USER'S AGREEMENT FORM

I, \_\_\_\_\_, from \_\_\_\_\_ Department request permission to:

Use the El Paso County Purchasing Department credit card to make purchases on behalf of my department; or

Check out/utilize the El Paso County Purchasing Department credit card to make purchases in my capacity as a designated buyer in the Purchasing Department.

As a temporary Cardholder, I agree to comply with the following terms and conditions related to use of the credit card.

I understand that El Paso County is ultimately liable to the credit card bank for all charges made on the credit card.

I acknowledge that I am liable for all charges for purchases that are made that are not in compliance with this Agreement or not in compliance with the El Paso County Purchasing Credit Card Policies and Procedures:

1. The procurement card SHALL NOT BE USED for the following:
  - a) Personal purchases.
  - b) A purchase that exceeds the purchase limit established by the Commissioners Court.
  - c) Entertainment expense.
  - d) Cash advances.
  - e) Telephone calls/monthly service.
2. A cardholder who makes unauthorized purchases, carelessly uses the credit card, or fails to turn in the appropriate documentation shall be liable for the total dollar amount of such unauthorized purchases, plus any administrative fee charged by the bank in connection with the misuse. The cardholder will also be subject to disciplinary action and potential termination from his/her job.
3. A Buyer that repeatedly forgets or does not sufficiently complete the credit card check out log will have their access to the credit card revoked.

If the Credit card is used in a manner not authorized by the Policies, I agree to notify the Purchasing Agent immediately. I understand that it is my responsibility to safeguard the Credit card and account number and that I am personally liable for any charges resulting from my failure to safeguard the Credit card and account number. If the Credit card is lost or stolen, I shall notify the Purchasing Agent and Credit card Issuer immediately.

I agree to return the Credit Card to the Purchasing Dept immediately at the conclusion of the transaction.

I authorize the County Auditor to deduct the total dollar amount of all unauthorized purchases and other costs charged to the Credit Card that are made not in compliance with this Agreement or with the El Paso County Purchasing Credit Card Policies and Procedures from my paycheck.

Pursuant to Local Government Code Section 154.045, the Undersigned County Official or Employee acknowledges that the failure of the El Paso County Commissioners Court to approve any credit card expenditures of the Undersigned County Official or Employee constitutes a debt to the County of El Paso and authorizes the County of El Paso to withhold payment of the Undersigned County Official's

or Employee's salary compensation to the extent of the above debt.

Employee Signature	Employee ID#	Date	Department

\_\_\_\_\_

**Section 14**  
**BID PROTEST PROCEDURES**

**Protest Procedure:**

The protest shall be submitted in writing during the bid process or when the aggrieved vendor knows or should have known of the factors giving rise to the bid protest, or within 5 business days after award, whichever is earlier.

The written formal protest must contain a minimum of the following:

- A specific identification of the statutory or regulatory provision(s) that the purchasing staff member or department is alleged to have violated.
- A specific description of each act alleged to have violated the statutory or regulatory provision(s) identified above.
- A precise statement of the relevant facts that include time lines and all involved parties.
- An identification of the issue or issues that need to be resolved that support the protest.

The assigned purchasing staff member shall:

- Contact the requesting department and inform them of the vendor protest.
- Gather information and prepare documentation for the Purchasing Agent outlining the solicitation, evaluation and award of the bid/proposal.
- A decision shall be made by the Purchasing Agent to contact the County Attorney's office concerning the protest.
- Inform the requesting department on the progress and/or outcome of the vendor protest.

If the protest is not resolved by mutual agreement, the Purchasing Department shall promptly issue a decision in writing. The decision shall consist of the following:

- State the reasons for the action taken and send to the aggrieved vendor.

A copy of the decision shall be mailed or otherwise furnished immediately to the vendor and any other party intervening.

A decision shall be final and conclusive, unless fraudulent or Purchasing is directed by a Court decision.

All vendor protest documentation shall be filed with Purchasing in the bid file for reference.

## Section 15

### RENEWAL OF EQUIPMENT LEASES AND MAINTENANCE CONTRACTS

#### **STATUTE**

The renewal or extension of a lease or an equipment maintenance contract can be exempt from formal competitive bidding if the Commissioners Court grants the exemption, AND IF:

1. the lease or contract has gone through formal competitive bidding within the preceding year;
2. the renewal or extension does not exceed one (1) year; and
3. the renewal or extension is the first renewal or extension of the lease or contract.

#### **POLICY**

The purchase of all equipment leases and maintenance contracts will be handled through the Purchasing Department. All renewal or extension orders will be processed through the Purchasing Department. Any negotiations with bidders will be supervised by the Purchasing Agent. Purchasing will maintain the original documents and send the user department a copy when requested.

Purchasing will monitor maintenance contracts for expiration dates and will treat their renewal as annual term contracts.

#### **PROCEDURES**

The user department will enter a requisition in the purchasing system, identifying the budget line item account. The requisition should identify the purchase as either a lease or maintenance contract, invoice copies referenced in the requisition, the serial number, model number, and physical location of the equipment. The beginning and ending dates of coverage should also be specified.

If a renewal, the original contract number should be identified in the requisition.

If the request is for a sole source lease or maintenance agreement, the user department must follow up the requisition with a memo justifying why it is a sole source purchase.



**Section 16**  
**RECEIPT OF GOODS**

**POLICY**

The user department must acknowledge on the receiver copy of the Purchase Order form or by other electronic means as determined by the Purchasing Agent, its receipt and acceptance of delivered goods immediately.

Departments should notify the Purchasing Department if goods are not received by the due date or if damaged freight is delivered.

**ORDER VERIFICATION**

Department employees receiving shipments must pay particular attention to the delivery ticket and be sure it matches the County of El Paso purchase order. The individual receiving the goods must verify that all goods were shipped as stated on the delivery ticket, and sign **IN HIS OR HER OWN NAME— A FULL SIGNATURE IN INK on the receiving copy of the purchase order, with his/her name printed legibly below**

**DAMAGED FREIGHT**

When a shipment arrives, the user department must inspect the condition of all cartons. If freight is undamaged, the department/precinct receiving the shipment should sign the freight bill.

If the freight is visibly damaged, the receiving department must instruct the freight line driver to:

1. Note the damage on the freight bill; and then
2. Sign the freight bill.

If there is concealed damage, save the shipping cartons so the Purchasing Department can notify the freight line and request an "inspection and report of concealed damage." Any receiving report processed should always mention all damaged merchandise.

All boxes and packing materials should be kept in the event of visibly damaged or concealed damaged freight shipments.

Damaged freight must be reported to the freight line within fifteen (15) days after delivery. After fifteen (15) days the freight line is no longer liable for the damage.

All goods not received properly or not in compliance with the contract should be documented and reported to the Purchasing Department on the Vendor Performance form as soon as possible, so that the vendor can be notified and instructed to take corrective action.

Damaged goods should not be returned to the freight line or to the vendor, unless specifically requested to do so, and then only if a claim has been filed or authorization has been given by the vendor including a **RETURN NUMBER** or by the Purchasing Department.

**DOCUMENTATION**

It is the policy of County of El Paso to have all vendor invoices sent directly to Accounts Payable in The Auditor's Office.

Any warranty information should be copied to the Purchasing Department.

**Section 17**  
**DEBARMENT AND SUSPENSION**  
**Executive Order 12509**

**INTRODUCTION**

A statement from a vendor or service provider that their company and its principals have not been debarred, suspended, proposed for debarment, declared ineligible, are not in the process of being debarred, or voluntarily excluded from conducting business with a Federal department or agency of the Federal government.

**AUTHORITY**

Executive Order 12549 – Debarment and Suspension

**POLICY**

All contractors receiving individuals awards, using Federal funds of \$25,000 or more, and all sub recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, are not in the process of being debarred, or voluntarily excluded by an Federal department or agency of the Federal government.

**OFFICIAL REPRESENTATIVE**

The Purchasing Agent is designated to act for County of El Paso at the direction of the Commissioners Court in all matters relating to the purchasing program, including the purchase of goods/services from any vendor affected by this order.

**PROCEDURE**

This provision applies if the anticipated contract exceeds \$25,000. By submitting a bid or proposal in response to this solicitation, the bidder/proposal certifies that at the time of submission, he/she is not on the Federal Government's list of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/proposer will notify the County of El Paso Purchasing Agent. Failure to do so may result in terminating this contract for default.

1. For bids/proposals \$25,000 to \$49,999, that are not advertised prior to the award, the registry must be checked by the Buyer on the sam.gov website. A copy of the search will be kept in the permanent file for this procurement.
2. For advertised bids/proposals \$50,000 and up, bidders must sign the Debarment Certification Form and the Buyer responsible will check the registry prior to award on sam.gov website. A copy of the search will be kept in the permanent file for this procurement.
3. All other policy and procedures regarding contract award, contract modifications, and contract administration remain the same.

***NO AWARD WILL BE MADE BEFORE DEBARMENT STATUS IS DETERMINED***

**SECTION 18**  
**FEDERAL FUNDED PROCUREMENT PROJECTS**

**POLICY STATEMENT**

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When federal funds are provided for the purchase of goods, services or construction, the County of El Paso will comply with all federal bidding requirements.

**Texas Department of Transportation (TXDOT) - FUNDED PROJECTS**

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The County of El Paso will facilitate bids on federally-funded TxDOT projects in compliance with the federal procurement policies set forth in 23 CFR Part 635. The County shall follow the guidelines as discussed in Section 9.2 Construction Purchasing, with the following additional requirements:

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1. TxDOT/federally funded bids will be awarded to the lowest responsive and responsible bidder.
2. The County shall comply with procedures in the Local Government Project Management Guide from TxDOT, as amended.
3. The County adopts TxDOT's DBE program and will comply with its rules and regulations for implementation:
  - a) Disadvantaged Business Enterprise (DBE), Historically Underutilized Business (HUB) and Small Business Enterprise (SBE). The federal and state programs for DBEs, HUBs and SBEs have been developed to encourage participation in the professional services and construction industry by a wide variety of firms and, therefore, expand diversity in the industry.
  - b) All federal-aid projects are subject to the DBE requirements. The U.S. Department of Transportation (USDOT) must approve each state's DBE program and its annual goals to ensure compliance with all DBE program requirements. Participation in TxDOT's approved DBE program requires the execution of a memorandum of understanding (MOU) between the County and TxDOT. This can be accomplished through reference to the MOU in the advance funding agreement (AFA), executed by both parties but eventually should be accomplished by joint execution of a MOU by the County and TxDOT.
  - c) The County will implement TxDOT's DBE program and coordinate closely with the TxDOT district. This includes TxDOT pre-approval of procurement procedures and sub-agreements and periodic Local Government reporting requirements.

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**FEDERALLY FUNDED PROJECTS**

County of El Paso will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of County government, and seeks to encourage the use of certified historically underutilized businesses (HUBs). The County

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will encourage the good faith efforts of firms who recognize and practice similar business standards.

Historically underutilized businesses (HUBs) – also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his or her identification as a member of certain groups, including women, Black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans and American Indians.

County of El Paso receives Federal financial assistance from the Department of Transportation and as a condition of this assistance, County of El Paso signed an assurance confirming that compliance with 49 CFR Part 26 will be adhered to.

For additional information, see: <http://www.fhwa.dot.gov/hep/49cfr26.htm>

The County will make a good faith effort of afford all opportunities for HUBs to participate in the County's bid process. Further, the County or its subrecipients shall not discriminate against any HUBs or employees thereof in the performance of and federally funded contract.

All procurement of supplies, equipment and services utilizing Federal Funds (e.g., Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations such as the Federal Acquisition Regulations (FAR), Federal Office of Management and Budget (OMB) Circular A-102, and OMB Circular A-110.

For additional Federal Funded information, visit the following website links:

<https://www.acquisition.gov/far/>

<http://www.whitehouse.gov/omb/>

County of El Paso as subrecipient shall use our own procurement procedures that reflect applicable State and local laws and regulations, including requirements for competitive procurement, 49 CFR Part 18 and FTA C 4220.1E, "Third Party Contracting Requirements":

1. The County shall review procurement requests to avoid duplicative or unnecessary purchases.
2. The County shall will maintain records sufficient to detail the significant history of a procurement. These records will include a) rationale for the method of procurement, b) selection of contract type, c) contractor selection or rejection, d) and the basis for the contract price.
3. Federal procurements shall not have a geographic preference included in the bid or RFP, except in those cases where applicable Federal statues expressly mandate or encourage geographic preference.

Beginning, January 1, 2016, County of El Paso will be conduct federal purchases in compliance with the federal procurement policies set forth in 2 CFR 200.

**COUNTY OF EL PASO GUIDELINES AND CRITERIA  
FOR  
CONSIDERATION OF LOCATION  
OF BIDDER'S PRINCIPAL PLACE OF BUSINESS  
(LOCAL BUSINESS PREFERENCE POLICY)**

**I. AUTHORIZATION**

Section 271.905 of the Texas Local Government Code authorizes the County of El Paso to give consideration to the location of a bidder's principal place of business in awarding the bid ("Local Business Preference"). In order to do so, the County Commissioners Court must determine, in writing, that the local bidder offers the County the best combination of contract price and additional economic development opportunities for the County created by the contract award, including the employment of residents of the County and increased tax revenues to the County.

**II. GENERAL PURPOSE AND INTENT**

**A.** The purpose and intent of these Guidelines and Criteria is to set forth the parameters under which the County of El Paso may consider the location of a bidder's principal place of business in awarding the bid.

**B.** All applications for consideration will be considered on a case-by-case basis, and the decision to approve or deny consideration shall be at the discretion of the El Paso County Commissioners Court.

**C.** The County of El Paso reserves the right to reject all bids; award a contract to the lowest bidder; or to award the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

**III. FACTORS THAT THE COUNTY MAY CONSIDER IN AWARDING A CONTRACT UNDER THE LOCAL PREFERENCE POLICY**

**A.** The bids must be for any real property or personal property that is not affixed to real property.

**B.** The location of the bidder's principal place of business must be in the County, as evidenced by submission of the current and valid Franchise Tax Certificate and the Certificate of Account Status on file with the Texas Secretary of State, or other documents if applicable under the Texas Business Organizations Code.

**C.** The bidder's bid price must be within 3% of the lowest and best qualified bid.

**D.** The bidder must include in the bid a written application for the Local Business Preference providing objective information satisfactory to the Commissioners Court as to how the award of the bid will lead to additional economic development opportunities for the County created by the contract award, including (1) The employment of County residents, and (2) Increased tax

revenues to the local government. Such information shall be as appropriate to the type of bid, but may include, but is not limited to:

- (i) bid amount as percentage of reported local annual sales/revenue;
- (ii) economic impact- number of employees added within past 12 months
- (iii) new job by salary category
- (iv) local annual property taxes paid

E. The bidder must not be tax-delinquent as to federal, state, or local taxes.

F. The bidder may not subcontract the award, or any part of the award.

G. The bidder must not be indebted to the County. "Debt" includes delinquent taxes, fines, fees, and delinquencies arising from written agreements with the County. (This provision will take effect immediately upon the action by Commissioners Court required under Texas Local Government Code section 262.0276).

H. In determining who is a responsible bidder, the commissioners court may take into consideration the safety record of the bidder, of the firm, corporation, partnership or institution represented by the bidder. (This provision will take effect immediately upon the action by Commissioners Court required under Texas Local Government Code section 262.0275).

I. All bidders, including owners, principals or officers if the bidder is a corporation or other legal entity, seeking Local Business Preference will be required to submit an affidavit of any and all political contributions to members of Commissioners Court for the previous 12 months.

J. A business in which a member of Commissioners Court has a substantial business interest as defined under Texas Local Government Code Chapter 171 is not eligible for consideration under the Local Business Preference Policy.

#### IV. APPLICATION

A. **Case By Case Basis.** If the Purchasing Agent and Procurement Review Panel determines that a proposed bid is appropriate for Local Business Preference, it will include in the bid the information required from the bidder. Only bids for real property or personal property that is not affixed to real property are eligible for the Local Business Preference.

B. **Written Application:** A bidder may request consideration for Local Business Preference by submitting the required information as part of the bid. There is no charge to submit the application.

C. **Contents of Application:** The application shall consist of a completed application form. The application must include objective, verifiable information from the bidder as to how the local bidder offers the County the best combination of contract price and additional economic development opportunities for the County created by the contract award, including the employment of County residents and increased tax revenues to the County. The application form may require such financial and other information, as the County deems appropriate for evaluating the financial capacity and other relevant factors of the applicant.

**V. ADMINISTRATION**

**A. Annual Assessment:** Each September, the Purchasing Agent shall separately account for all bids awarded pursuant to the Local Preference Policy and the County Auditor shall annually determine the total value of contracts awarded pursuant to the Local Preference Policy.

**B. Annual Reports:** Each September, a company receiving a contract award pursuant to the Local Business Preference shall report to the County its annual revenues, annualized employment levels distributed by wage brackets, the addition or deletion of capital assets in excess of \$1,000,000.00, and any other pertinent information that would affect the ability of the local operation to maintain its status as a going concern.

**C. "Buy Local" Provision:** Each recipient of Local Business Preference shall additionally agree to give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. The Annual Report by the company shall include a summary of the action taken by the company pursuant to the "Buy Local" Provision.

**VI. CONFIDENTIALITY**

Information that is provided to the County in connection with an application or request for Local Business Preference under these Guidelines and Criteria shall be kept confidential and not be subjected to public disclosure except as required by law, the Texas Attorney General, or by an order of a court. Written information shall be released pursuant to a request under the Public Information Act, Chapter 552 of the Texas Government Code, as amended, by the officer for public information or his or her designee in accordance with the standards established under that act for confidentiality and closed records.

Adopted this 17<sup>th</sup> day of December, 2012 by the El Paso County Commissioners Court.

ATTEST

COUNTY OF EL PASO

  
\_\_\_\_\_  
County Clerk, Delia Briones

  
\_\_\_\_\_  
County Judge Veronica Escobar



**COUNTY OF EL PASO  
LOCAL BUSINESS PREFERENCE POLICY  
APPLICATION for  
BID NO. \_\_\_\_\_**

**For additional information, see the Local Business Preference Policy (attached).**

**A. Qualification as a Local Business.**

**Where is your principal place of business?**

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**Are you tax delinquent as to federal, state, or local taxes? \_\_\_\_\_**

**Are you registered to do business with the Texas Secretary of State? \_\_\_\_\_**

**\_\_\_\_ Attach a copy of your current Franchise Tax Certificate on file with the Texas Secretary of State.**

**\_\_\_\_ Attach a copy of your current Certificate of Account Status on file with the Texas Secretary of State.**

If the above documents do not apply, explain why and provide the equivalent documents required by the Texas Secretary of State and/or Texas Business Organizations Code for your type of business entity.

**B. Economic Development Opportunities.**

**How will the bid award lead to additional economic development opportunities for the County?** *This information includes, but is not limited to, (1) The employment of County residents, and (2) Increased tax revenues to the local government. Such information shall be as appropriate to the type of bid, but may include, but is not limited to:*

- (i) bid amount as percentage of reported local annual sales/revenue, or total commodity sales;*
- (ii) economic impact- number of employees added within past 12 months*
- (iii) new jobs by salary category*
- (iv) local annual property taxes paid*

**(You may attach your answer on a separate page, if you prefer).**

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**C. No Subcontracting of Award.**

The bidder may not subcontract the award, or any part of the award. Doing so will be grounds for termination of the contract and penalties. **Agreed \_\_\_ Yes \_\_\_ No**

**D. Affidavit of Contributions to members of Commissioners Court.**

Any and all political contributions by the bidder to members of Commissioners Court for the previous 12 months by the bidder, must be disclosed. This includes owners, principals or officers if the bidder is a corporation or other legal entity, must be disclosed. **Complete and sign the attached affidavit.**

**E. Annual Report.** If you are awarded the bid, you must provide the County, every September, a report of your revenues for the most recent year end, annual employment levels by wage brackets, the addition or deletion of capital assets in excess of \$1,000,000.00, and any other pertinent information that would affect the ability of your business to maintain its status as a going concern.

**F. Agreement to “Buy Local.”**

If you are awarded the bid, you agree to give preference and priority to County manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. Your Annual Report (see Section E) must include a summary of the action taken by the company pursuant to the “Buy Local” Provision.

**G. Confidentiality.**

Information that is provided to the County in connection with an application or request for Local Business Preference shall be kept confidential and not be subjected to public disclosure except as required by law, the Texas Attorney General, or by an order of a court. Written information shall be released pursuant to a request under the Public Information Act, Chapter 552 of the Texas Government Code, as amended, by the officer for public information or his or her designee in accordance with the standards established under that act for confidentiality and closed records.

Name Of Business \_\_\_\_\_

Name Of Authorized Representative \_\_\_\_\_

Title Of Authorized Representative \_\_\_\_\_

Signature Of Authorized Representative \_\_\_\_\_

Date \_\_\_\_\_

AFFIDAVIT

To be completed by all vendors as described in section D of the local business preference application- By owner, if vendor is a sole proprietorship or all principals and officers if the vendor is a corporation or other legal entity

AFFIDAVIT

THE STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, who, first upon oath being duly sworn, deposed and stated:

I am fully competent to make this affidavit, and the information contained herein is based upon my personal knowledge.

1. My name is \_\_\_\_\_. My title and principal place of business is \_\_\_\_\_.
2. For the period from January 1, \_\_\_\_\_ to the present, I, made the following campaign contributions, gifts or any transfers of cash, checks or anything of value to any member of the County of El Paso Commissioners Court, any person related by marriage or birth to the County Commissioners or County Judge or any member of the County of El Paso administrative staff: (Provide Date, Amount or Cash Value of Gift, and Recipient's Name and Title): \_\_\_\_\_.

[add any additional information you think necessary or appropriate]

\_\_\_\_\_

Affiant

The foregoing Affidavit was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, (Name), \_\_\_\_\_(Title), both in his/her individual capacity and on behalf of \_\_\_\_\_(Company).

\_\_\_\_\_

Notary Public, State of \_\_\_\_\_

## SECTION 20

### VENDOR PERFORMANCE

When monitoring vendor performance, using departments provide valuable information to Purchasing staff regarding performance of the vendor or the service provider. There are two Vendor Performance Forms available on the Intranet. A sample of the forms are included in the "Forms" section of this document:

- Vendor Performance Form- For Contracted Services
- Vendor Performance Form – For Goods and Supplies Vendors

When a department has a problem with the items delivered (or not delivered) by the vendor, or the services provided by the vendor, they should complete the Vendor Performance Form and forward to Purchasing. Purchasing will keep the forms in the vendor file and make a determination regarding any action taken toward the vendor depending on the severity of the problem. Such determination may include any of the following:

- a) A phone call to the sales rep, manager, owner, or board member of the company discussing the problems.
- b) An e-mail to the sales rep, manager, owner, or board member of the company discussing the problems.
- c) A certified letter to the sales rep, manager, owner, or board member of the company discussing the problems.
- d) Cancellation of the contract.
- e) Vendor barred from participating in future County of El Paso bids for the period of one (1) year.
- f) Vendor barred from participating in future County of El Paso bids for the period of two (2) years.
- g) Vendor barred from participating in future County of El Paso bids for the period of three (3) years.

SECTION 21  
PURCHASING FORMS

1. Vendor Performance Form- For Contracted Services
2. Vendor Performance Form – For Goods and Supplies Vendors
3. Rating Sheet for Request for Proposals or Requests for Qualifications
4. County's Insurance Requirements

**County of El Paso  
Purchasing Department**

**Vendor Performance Quality Report  
for Contracted Services**

Complete this form to report unsatisfactory performance by vendors of goods or services purchased by County of El Paso departments. Be sure to furnish all necessary details. Please verify all information to insure accuracy. Vendor Performance Quality reports become a permanent record of the vendor and must be accurate to guarantee an informed and equitable resolution and to serve as a reference for possible future action regarding a vendor's performance.

**DEPARTMENT INFORMATION**

Dept Name: \_\_\_\_\_ This Report Completion Date: \_\_\_\_\_  
Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Individual who initiated complaint and others with knowledge of the unsatisfactory performance (all or part) - Names: \_\_\_\_\_ Email: \_\_\_\_\_

**VENDOR INFORMATION**

Name: \_\_\_\_\_ FEI or SSN: \_\_\_\_\_  
Contact: \_\_\_\_\_ Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

**CONTRACT INFORMATION**

Contract #: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Description of services: \_\_\_\_\_

**UNSATISFACTORY PERFORMANCE** (check ALL that apply)

- Failure to meet specs/performance requirements       Partial Delivery/Non-Delivery  
 Unauthorized substitution       Quality of goods or services  
 Other (please explain) \_\_\_\_\_

**UNSATISFACTORY PERFORMANCE CAUSED THE FOLLOWING** (check ALL that apply)

- Delay/late performance      Failure/Accident/Injury  
Work had to be redone  
Other (please explain) \_\_\_\_\_

Describe:

Comments:
<b>DESIRED RESOLUTION:</b>

Additional supporting data attached (i.e. pictures, sample, text)  Yes  No  
Please send this completed form and any corresponding information to \_\_\_\_\_ at \_\_\_\_\_@epcounty.com or fax to (915) 546-8180 Attn: Unsatisfactory Vendor Performance

**County of El Paso  
Purchasing Department**

**Vendor Performance Quality  
Report for supplies and  
materials Vendors**

Complete this form to report complaints against vendors for goods or services purchased by County of El Paso departments. Be sure to furnish all necessary details so that a satisfactory resolution of the complaint can be made. Please verify all information to insure accuracy. Complaint reports become a permanent record of the vendor and must be accurate to guarantee an informed and equitable resolution and to serve as a reference for possible future action regarding a vendor's performance.

**DEPARTMENT INFORMATION**

Dept Name: \_\_\_\_\_ This Report Completion Date: \_\_\_\_\_  
Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Individual who initiated complaint - Name: \_\_\_\_\_ Email: \_\_\_\_\_

**VENDOR INFORMATION**

Name: \_\_\_\_\_ FEI or SSN: \_\_\_\_\_  
Contact: \_\_\_\_\_ Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

**ORDER INFORMATION**

Req. #: \_\_\_\_\_ PO#: \_\_\_\_\_

Item # or description of services: \_\_\_\_\_

**COMPLAINT** (check ALL that apply)

- Failure to meet specs/performance  Partial Delivery/Non-Delivery  
 Unauthorized substitution  Quality  
 Other (please explain) \_\_\_\_\_

Goods or Services that are unsatisfactory: \_\_\_\_\_

Comments:  
\_\_\_\_\_  
\_\_\_\_\_

**DESIRED RESOLUTION:**  
\_\_\_\_\_  
\_\_\_\_\_

Additional supporting data attached (i.e. pictures, sample, text)  Yes  No

Please send this completed form and any corresponding information to \_\_\_\_\_ at \_\_\_\_\_@epcounty.com  
or fax to (915) 546-8180 Attn: Unsatisfactory Vendor Performance

**Rating Sheet for Request for Proposals or Requests for Qualifications**

RFP/RFQ No. and Title \_\_\_\_\_

Name of Firm \_\_\_\_\_

Evaluator's Name \_\_\_\_\_

Evaluator's Department \_\_\_\_\_

Rate the Bidder on the following criteria based on the Maximum Points allowed.

<u>Rating Criteria</u>	<u>Maximum Points</u>	<u>Score</u>
Background & Experience of Proposed Staff	50	_____
Similar Projects	25	_____
Response to Scope of Work	15	_____
Capacity to Perform	<u>10</u>	_____
Total	100	_____

The department may request information necessary to assess the proposer on these criteria by contacting past/current clients.

Comments \_\_\_\_\_

Professional liability insurance is in force (circle one)                      Yes      No

*Under the El Paso County Code of Ethics section 5, Procurement, county public servants (officers and employees) shall excuse themselves from exercising influence, participating in, discussing, recommending, and/or granting of any County purchases, bids, or contracts if they, or a family member (defined in section 2.5 of the Code), have a substantial financial interest (defined in section 2.16 of the Code). In addition, County public servants shall not acquire a financial interest at a time when they believe or have reason to believe that it will be directly affected by their official act, and are prohibited from profiting by any knowledge they acquired solely from their official position with the County, which information is not available to the general public.*

By signing this evaluation form, I confirm that

1. I have reviewed the relevant provisions of the Code of Ethics -available at [http://www.epcounty.com/ethicscom/documents/Code\\_of\\_Ethics.pdf](http://www.epcounty.com/ethicscom/documents/Code_of_Ethics.pdf)
2. Neither I nor a family member has a substantial financial interest in any of the vendors being evaluated; and
- ~~3.1.~~ I will not profit by any knowledge that I acquire solely from my official position with the County that is not available to the general public.

Evaluator Signature \_\_\_\_\_

Date \_\_\_\_\_



## COUNTY OF EL PASO INSURANCE REQUIREMENTS

### **PROOF OF INSURANCE**

Successful bidder agrees to keep in full force and effect, a policy of public liability and property damage insurance issued by a casualty company authorized to do business in the State of Texas, and in standard form approved by the Board of Insurance Commissioners' of the State of Texas, with coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of services limits of not less than the following sums:

### **INSURANCE REQUIREMENTS FOR CONSTRUCTION AND OTHER SERVICES PROVIDED TO THE COUNTY OF EL PASO**

#### **GENERAL LIABILITY:**

\$1,000,000 – Each Occurrence  
\$1,000,000 – General Aggregate  
\$1,000,000 – Personal & Advertising Injury  
\$1,000,000 – Products/Completed Operations – Aggregate  
\$5,000 – Premises Medical Expense  
\$500,000 – Fire Legal Damage Liability  
County named as "Additional Insured"  
Waiver of Subrogation

#### **AUTOMOBILE:**

\$1,000,000 – Each Occurrence  
County named as "Additional Insured"  
Waiver of Subrogation

#### **WORKERS COMPENSATION:**

\$1,000,000 – Employers Liability – Each Accident  
\$1,000,000 – Employers Liability – Each Employee  
\$1,000,000 – Employers Liability – Disease – Policy Limit  
Statutory Limits  
Waiver of Subrogation

#### **CONSTRUCTION PROJECTS additional requirements:**

Builders Risk Policy for total amount of completed project  
Bid Bond  
Performance & Payment Bond  
The Contractor/Vendor is responsible for making sure any sub-contractor(s) performing work under this agreement has the required insurance coverage(s) and supplies County of El Paso with the proper documents verifying the coverage.

#### **PROFESSIONAL SERVICES additional requirements:**

Limit of \$1,000,000 for E&O/Professional Insurance.

#### **CERTIFICATE OF LIABILITY INSURANCE**

In the remarks section should include job description or project name and/or number. Successful bidder shall carry in full force Workers' Compensation Insurance Policy(ies), if there is more than one employee, for all employees, including but not limited to full time, part time, and emergency employees employed by the successful bidder. Current insurance Certificates certifying that such policies as specified above are in full force and effect shall be furnished by successful bidder to the County. Insurance is to be placed with insurers having a best rating of no less than A. The Bidder shall furnish the County with certificates of insurance and original endorsements affecting coverage required by these insurance clauses within ten (10) business days of execution of this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. The Bidder shall be required to submit annual renewals for the term of this contract prior to expiration of any policy.

In addition to the remedies stated herein, the County has the right to pursue other remedies permitted by law or in equity. The County agrees to provide Bidder with reasonable and timely notice of any claim, demand, or

COUNTY OF EL PASO INSURANCE REQUIREMENTS, PAGE 2

cause of action made or brought against the County arising out of or related to utilization of the property. Proposer shall have the right to defend any such claim, demand or cause of action at its sole cost and expense and within its sole and exclusive discretion. The County agrees not to compromise or settle any claim or cause of action arising out of or related to the utilization of the property without the prior written consent of the Bidder. In no event shall the County be liable for any damage to or destruction of any property belonging to the Bidder.

**County of El Paso shall be listed as the additional insured on policy certificates and shall be notified of changes to the policy during the contractual period.**