



Purchasing

The Basics of Purchasing Law and The Texas Local Government Code 262

Kennie Downing, Purchasing Agent

Joe Lopez, Asst. Purchasing Agent



Purpose of the Purchasing Department

- Provide a centralized procurement program based on nationally approved principles and practices.
- Ensure all vendors, departments, and the public are treated consistently and equally.
- In the eyes of the public and all taxpayers, ensure that County monies are spent wisely and at the lowest practical cost.
- Encourage broad-based competition - As many vendors can participate in the bid process as possible.
- **Ensure all purchases are in compliance with local, state, and federal Purchasing laws.**



The Purchasing Law

Texas Local Government Code, Chapter 262, more commonly known as “The Purchasing Act”. The Texas Legislature has enacted these Purchasing laws.

1. All bidders:
 - a) Receive the same bid specs
 - b) Given the same amount of time to respond
 - c) Given an opportunity to ask questions and obtain all questions and answers shared with all bidders
 - d) Submit their bid before the due date
 - e) Have their bid evaluated based on a pre-determined method = Lowest responsible bid or highest ranked score.



2. Policy vs. the Law

El Paso County Policy – The Purchasing Agent shall establish the policy and procedures for purchases below the formal bid limit.

Items \$50,000 or less – Purchases of goods/services from \$1.00 – 50,000, three (3) competitive bids must be obtained. Award is to the lowest bidder for goods and supplies; to the highest qualified bidder for services.

Short name = informal bid

LGC 262 Purchasing Law – Sets the formal bid limit

Items \$50,001 and Over – Purchases of goods/services over \$50,000 must be formally advertised and bid based on written bid specifications. Bids are sent to all interested vendors. Award is to the lowest bidder for goods and supplies; to the highest qualified bidder for services.

Short name = Formal bid



Any Exceptions?

Grant funded items or services – No

Sole Source – the Purchasing Agent must determine that there is only one source to obtain the goods or services. Justification must be written and saved in the permanent file.

Sole purchases over \$50,000 requires the a written memo from the Purchasing Agent be read into the Commissioners Court minutes.



Purchasing can set up Annual Contracts or Locate a Cooperative Contract

- In order to shorten the bidding process, we can set up an annual bid for the items you need frequently (2 or more times a year.) Ask your Buyer about bidding an annual contract.
- The Buyer can check if the particular item has already been awarded under a cooperative contract. Ex. City of El Paso, Region 19, US Communities, TCPN, TXMAS, etc.



Lowest Responsible bidder

“...award the contract to the responsible bidder who submits the lowest and best bid;

A responsible bidder is a bidder

- 1) That submits all required documents as requested in the bid
- 2) Meets the specifications written in the bid.
- 3) Has the financial capacity to sell or perform the work described in the bid.



RQ Bid Specifications for Refrigerator:

- 1) 36" wide
- 2) Side by side refrigerator
- 3) Color: beige
- 4) 21 cubic feet
- 5) Delivered to the Courthouse, 5th floor breakroom
- 6) Not To Exceed amount = \$500

Bid Results:

	Best Buy	Jack's Appliances	Fridges R US	Sears
Bid Price	\$469.00	\$475.50	\$489.25	\$510.00
Width	35 ¾"	36"	36.1"	36"
Side-Side	Yes	Yes	Yes	Yes
Color	Beige	White	Beige	Beige
Cubic feet	21	21	21.2	21



Highest Qualified Bidder for Services

Services bids: Where the bidder provides qualified people to perform a service for the County, ex. Counseling, Managing the VanPool program, Language interpreting

Instead of a bid, Purchasing issues a Request for Proposals.

Instead of lowest price, proposal are ranked on a percentage scale.

Sample Rating Criteria:

- History and experience of the Company – ___ points
- Qualifications of the staff assigned to the project – ___ points
- Price – ___ points
- Response from References – ___ points

TOTAL = 100 points

All raters should rate individually (not as a group), using their own knowledge and judgment.



3. All bid documents are public!

After award, any vendor or member of the public can request copies of bid documents including:

1. Bid specification
2. A list of bidders the bid was sent to
3. Copies of the bids submitted
4. A spreadsheet showing all bid prices and respondents
5. Justification why a bidder was awarded the bid.
6. Any e-mail communications between the Buyer and the department regarding the bid.



4. Stay out of Trouble with the Law! PURCHASING DON'Ts

Departments can't authorize the purchase of any goods or services. Only the Purchasing Agent can authorize purchases on a signed purchase order form. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order may be held personally responsible for the payment.

Don't commit to accepting material on "a trial basis". El Paso County will not be obligated to purchase goods that are delivered for use on a trial basis or not purchased by the Purchasing Department.

Don't use purchasing strategies that violate the law to avoid competition. Such actions listed below are in violation of the law (Texas Local Government Code, Section §262.023):

Component Purchases – Purchasing a series of component parts or goods that would normally be purchased complete.

Separate Purchases – Purchasing goods or services in a series of separate purchases that, in normal purchasing practices, would have been made in one purchase.



PURCHASING DON'Ts (continued)

- 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 Texas Local Government Code, section 262.034(a).
Don't violate or authorize the violation of the Purchasing Act.
- Any vendor delivering goods or services without receipt of a County purchase order may be considered a *donation* to El Paso County.
- Employees must never purchase goods or services for their own personal benefit, nor use the leftovers or extras from a county project for their personal use.
- Employees should refrain from paying for a county purchases out of their own pocket.



PURCHASING DON'Ts (continued)

- Do not sign or ask your Director or Elected Official to sign a contract. Only County Judge Escobar is authorized to sign contracts on behalf of the County. Commissioners Court authorizes her signature at a regular meeting.
- Don't use your position as a County employee or elected official to request a discount from a contracted vendor.
- Once the bidding process has begun, don't communicate with any potential vendor. It is a violation of the Ethics Code. Refer them to Purchasing.

All the “Don'ts” previously listed are a violation of the Law!



Purchasing Process in a Nutshell

1. Department needs to buy materials or contract for services.
2. Department submits a requisition on the electronic purchasing system. Obtains dept approval.
3. Auditors check budget for available funds and correct expense code.
4. Requisition sent to Purchasing to obtain bids.
5. Purchasing or Commissioners Court awards bid depending on amount. Purchasing prints the purchase order.
6. Purchase order sent to vendor and order is placed.
7. Items are delivered or services begin after we get a signed contract.



Frequent Purchasing Situations:

1. You've submitted a requisition for new office furniture for 2 offices. The Buyer has already obtained the bids and is about to print the Purchase Order. You just realize you forgot to include Patricia's office on the requisition, so you call the Buyer and ask if we can award Patricia's furniture to the same lowest bidder?



Question 1. Answer

No – All bidders must be given the same opportunity to bid on all items.

Either:

- 1) We re-bid the items and add Patricia's office (Depts will cancel original RQ and write new RQ with 3 offices), or
- 2) Purchasing sends a PO for 2 offices. Department writes RQ for Patricia's office to get the 3 bids.



Frequent Purchasing Situations (cont):

2. Your cousin's company offers you the best prices on automobile oil changes. You ask the Buyer: "Why can't you just send the purchase order to him to service my County vehicle?"



No –

- 1) All items are required to obtain 3 bids.
- 2) It's a conflict of interest to award to a family member unless they are the lowest responsible as determined by the Buyer.
- 3) Purchasing has an existing contract for automobile oil changes. All County oil changes must be given to the awarded vendor.



Frequent Purchasing Situations (cont):

3. The Buyer has gotten the 3 bids and the vendor you expected to win (Sanchez Foods) didn't, but you're still getting the items you asked for; you just don't like the vendor chosen. You ask the Buyer: "Can't you call up Sanchez Foods and ask him to lower his prices to be the lowest bidder?"



No -

- 1) All bidders must be given the same opportunity to do business with the County.
- 2) If we call one vendor to lower their price, we must call all bidders to ask them all to lower their price.

Don't get emotionally involved with the vendors! If you feel bad that a certain vendor didn't win the bid, you're emotionally involved. It's just business.



Frequent Purchasing Situations (cont):

4. Your gasoline tank pump is broken and you need a vendor to look at the pump to give you an estimated price. You call one vendor that you know will do a good repair job. You submit the RQ and a quote to Purchasing for \$2,500. Can the Buyer give you a Purchase Order?



No –

- 1) It's not a violation to contact a bidder to obtain a quote, however 3 bids are required.
- 2) You've lost valuable time because only 1 vendor was contacted. The Buyer still needs to find 2 more bidders so they can see the site as well.

It's faster if you contacted the Buyer first and said: "I need 3 vendors to take a look at my fuel pump. Can you make an appointment for all three vendors to show up on Tuesday at 11:00am?"



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.

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.

Thousands of City, County, and State governments have been sued because bids have been perceived to unfairly favoring a particular vendor, or the bid evaluation process wasn't exercised equally among all bidders.



GENERAL PURCHASING POLICY - DO'S

- 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. *We're your personal shopper!*
- Make sure you have sufficient funds in your Budget before submitting the RQ. Requisitions will not be processed.
- If you're copying an old RQ, update the specs and price!
- Departments should plan purchases in order to keep emergency and expedited purchase requisitions to a minimum. Vendor charge higher prices for rushes. Plan your purchase ahead of your upcoming deadline.
- The Purchasing Department is totally committed to processing all purchase requisitions within a reasonable time frame.
Informal –average 4 days; formal bids –average 8-12 weeks



GENERAL PURCHASING POLICY - DO's (continued)

- Department Heads must assure that all employees involved in making departmental purchases have read and understand the purchasing procedures. The Purchasing Department provides training to County staff whenever needed.
- 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.
- Notify Purchasing if an item on a Purchase Order has been cancelled, so Inventory staff can remove this item from their Anticipated Deliveries List.
- Monitor vendor performance and notify Purchasing of any problems such as any shortage, late delivery, damaged merchandise, poor quality product, or any other problem relating to the vendor's performance. A simple written explanation, if possible, can be placed in the bid file for future consideration at the time contracts are brought to the Commissioners Court for award.



*Building on our legacy, illuminating innovation, succeeding beyond borders.
est. 1850*

Call Purchasing First!!!



El Paso County Buyers

Gary Albert Lopez x4521: Building Materials, Industrial Machinery, Auto Parts, Janitorial Supplies, Lubricants

Myrna Ruz x4527: Office supplies, Paper, Educational , Office Accessories

Araceli Hernandez x4520: Furniture, Subscriptions, Medical Supplies, Maintenance contracts, Awards, Clothing

Arturo Caballero x4522: Food, Plumbing supplies, Printing, Linen, Security

Elvia Contreras x4524: Constructions, Automobiles, petro and additives, road & bridge equipment, promotional items, police items

Peter Gutierrez x8294: Audio/Visual, Computers, Electrical Supplies, paint, photographic, lighting, Office Machines.



Questions? Call us...

Kennie Downing, Purchasing Agent

Office Phone: 915-546-2048

Joe Lopez, Asst. Purchasing Agent

Office Phone: 915-546-2068