



City of Arlington, Texas

PROCUREMENT

MANUAL

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Code of Ethics

The Financial Services Department/Purchasing Division believes that the following ethical principles should govern the conduct of every person employed by the City who procures goods and services.

- Believes in the dignity and worth of the service rendered by the City, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the City and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and will not be tolerated.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the City and its staff should, at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Neither seeks nor dispenses personal favors. Handles each administrative problem objectively and empathetically, without discrimination.

- j. Purchases involving IT products, maintenance, or systems must have the prior approval of the IT Governance Board. The Purchasing Division cannot proceed on these types of purchases without this written approval. The department is responsible for obtaining the approval and providing it to the Purchasing Division.
9. No employee shall purchase supplies, services, materials or equipment of any kind through the City of Arlington for personal use.
10. Each department head shall assume the responsibility of maintaining control of their departmental expenditures, including expenditures on annual contract.
 - a. Specific appropriations are made in the annual operating budget for each department's budget.
 - b. The Lawson purchasing system will not release requisitions for approval if the associated account number has insufficient budget. The department is responsible for correcting/adjusting budget to ensure orders can be placed.
11. Each department's Fixed Asset Coordinator shall be responsible for the control and safekeeping of the fixed asset inventory items assigned to his/her department.
 - a. This control is to include procedures to update inventory for deletions and additions as defined in the Fixed Asset Manual, Appendix C, Fixed Assets.
 - b. Prior to trading-in a tagged fixed asset as part of a purchase, the Department's Fixed Asset Coordinator shall notify the Fixed Asset Accountant of the trade; to include the cost of the new equipment without the trade-in.
 - c. A copy of the vendor's quote and the Fixed Asset Accountant acknowledgement shall be forwarded to Purchasing prior to approving the purchase.
12. Departments are encouraged to closely monitor vendor performance. In the event that a vendor fails to perform in compliance with specifications, departments should complete and submit to the Purchasing Division, a Vendor/Contractor/Consultant Performance Report.
(Part III/Section 14.3)

5.0 PROCUREMENT METHODS

5.1 Quotes

1. Purchases of non-contract goods or services totaling \$3,000 or less require no quotation. In such instances, departments should make every effort to use the City's procurement card.

Except where otherwise exempted by applicable State law, purchases totaling \$3,000 or more (but less than \$50,000) require a minimum of three quotes, two of which must be from Tarrant County HUB vendors, if available and identified in the CMBL on the State website. All quotations received must be in writing from the vendor and will be evaluated by a purchasing agent who will then authorize and issue a purchase order through Lawson.

Purchases of supplies and services exceeding \$50,000 are processed by the Purchasing Division using sealed bid or other approved competitive solicitation method, and must comply with applicable State laws.

2. Local Government Code Chapter 252.0215 Competitive bidding in relation to HUB vendors, states that a municipality, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two HUBs on a rotating basis. If the list fails to identify a disadvantaged business in the county in which the City is situated, the City is exempt from this section.

HUB – Certified businesses that are at least 51% owned, operated, and controlled by the qualifying groups which include Asian Pacific Americans, Black Americans, Hispanic Americans, Native Americans and American Women.

To obtain a listing of all businesses certified by the State of Texas for Tarrant County visit <https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. A link to the this database is also available through the Purchasing Portal on the City's intranet.

5.2 Competitive Bids (Goods and Services)

1. Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is more than \$50,000 must be processed as competitive solicitations (e.g. sealed bids, request for proposals, and request for offers). Texas Local Government Code, Subchapter B, Section 252.021 defines the requirements for competitive bids.

Under no circumstances shall multiple requisitions of \$50,000 or less be used in combination to avoid otherwise applicable bidding requirements or City Council approval, which is required for all purchases of greater than \$50,000. Refer to Purchasing Manual Section **9.0 VIOLATIONS** for details on this Class B Misdemeanor offense

2. The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

3. Award of Contract

Texas Local Government Code, Section 252.043, states, in part:

(a) *If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*

(c) *Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*

4. Time Requirements

The time required for the processing of competitive sealed bids is generally twelve to fourteen weeks, depending on when the Purchasing Division receives the specifications and whether the order will be placed by a one-time purchase order or annual contract. The process consists of the following requirements:

- a. Receipt of specifications;
- b. Specifications are developed, drafted, and reviewed by the requesting department and the Purchasing Division;

on City property and/or when warranted by the complexity of the work.

7.2 Opening of Bids

Competitive sealed bids shall be publicly opened, read aloud, and recorded at a designated location at the scheduled date and time. All vendors submitting bids are invited to attend these bid openings, as well as City personnel representing the division/department and other interested parties.

The City will return late bids unopened. A photocopy of the time-stamped envelope will be retained in the file. Bids may be withdrawn at any time prior to the official opening. Bids may not be altered, amended or withdrawn after the official opening without the recommendation and approval of the Purchasing Agent.

7.3 Evaluation of Bids

The Purchasing Agent, and other City personnel as required, will evaluate all competitive bids, proposals, and/or offers received in accordance with the evaluation criteria established and included in the solicitation documents. If necessary, an evaluation team will be established.

7.3.1 Lowest Responsive And Responsible Bidder

1. A **responsive** bidder is defined to be one who submits a completed sealed bid packet within the stated time deadline and in accordance with the bid specifications.
2. A **responsible** bidder is defined to be one who demonstrates specific selection criteria responses that define whether the company can successfully deliver the supplies, equipment, or services.

7.3.2 Best Value Bidder

Texas Local Government Code, Section 252.043, states, in part:

In determining the best value for the municipality, the municipality may consider:

1. *the purchase price;*
2. *the reputation of the bidder and of the bidder's goods or services;*
3. *the quality of the bidder's goods or services;*
4. *the extent to which the goods or services meet the municipality's needs;*
5. *the bidder's past relationship with the municipality;*
6. *the total long-term cost to the municipality to acquire the bidder's goods or services; and*
7. *any relevant criteria specifically listed in the request for bids or proposals.*

7.4 City Council Action – Recommendation for Award

Staff reports are prepared in accordance with City Manager's Office requirements. The Mayor and City Council approve all contracts, purchase orders, and change orders \$50,000 or greater. While the Purchasing Division generally submits staff reports, the division/department is responsible for providing any information necessary to complete them.

Handitran participation.

- 7.9.3 The requirements and standards of Circular 4220 Third Party Contracting Requirements apply to procurements using FTA funds. Before procurements are initiated to include quotes, sealed bids, request for proposals, request for qualifications, interlocal agreements, or inter-agency agreements, departments are to review the grant requirements and work with the Purchasing Manager to ensure required steps are followed. Recipients are required to have all stages of the procurement reviewed and approved by Finance Department.
- 7.9.4 When using FTA grant assistance to support acquisition, refer to the most updated version of the FTA Circular for Third Party Contracts for guidance. Federal Contracts shall include all the Third Party Contract requirement clauses set forth in Appendix D of FTA Circular for Third Party Contracts. Chapter 14 provides the latest FTA Circular and describes the provisions, clauses and procedures followed by Contracting Officers specific to contracts associated with federal funding.
- 7.9.5 When using federal funds, the use of time and materials and cost-plus contracts are prohibited. Also, federal procurements can not consider any local geographic preference during the award process.
- 7.9.6 Per the Uniform Guidance, Independent Cost Estimates (ICE) and Price Analysis must be conducted for all procurements above the simplified acquisition threshold of \$250,000.
- 7.9.7 For every procurement process, a written report regarding the procurement history of the purchase must be documented and kept with the procurement file per CFR200.318. These records shall include, but not limited to Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

8.0 LEGAL REQUIREMENTS

8.1 Exemptions from Competitive Bidding

Per Vernon's Texas Codes Annotated – Local Government Code, Section 252.022, there are general exemptions to the competitive bidding requirements, including:

- a. A procurement made because of public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
- b. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- c. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- d. A procurement for personal, professional services, or planning services;
- e. A procurement for work that is performed and paid for by the day as the work progresses; and
- f. A purchase of land or a right-of-way;
- g. Goods subsequently sold by the City (i.e., resale).

8.2 Advertising Requirements

Vernon's Texas Codes Annotated - Local Government Code, Section 252.041(a) states:

Whenever the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality.

The date of the first publication must be before the 14th day before the date set to publicly open and read them aloud. If no newspaper is published in the municipality, the notice must be posted at the City hall for 14 days before the date set to open the bids and read them aloud.

8.3 Identical Bids

Vernon's Texas Codes Annotated - Local Government Code, Section 271.901 states in part:

- (a) *If a municipality or district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.*
- (b) *If only one of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.*
- (c) *The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots."*

8.4 Cumulative Purchases

The legislature defined certain cumulative purchases as "separate", "component" and "sequential" and defined them as follows in the Vernon's Texas Codes Annotated - Local Government Code, Section 252.001:

1. "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
2. "Separate purchases," means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
3. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practice would be purchased in one purchase."

Generally accepted purchasing practice interprets these definitions to mean that separating large purchases into multiple small purchases to avoid the competitive bidding process is not legal under the State statutes. The Purchasing Division is making every effort to establish annual contracts for those items that may exceed the \$50,000 limit. Departments shall bring to the attention of the Purchasing Department any material, supplies or products that are not on annual contract and for which the anticipated usage will be near or exceed the \$50,000.

9.0 VIOLATIONS

9.1 Violations of the Competitive Bidding Statutes

Vernon's Texas Codes Annotated, Local Government Code, Section 252.062 states:

PURCHASING POLICY

PART II: CONTRACT ADMINISTRATION

11.0 CONTRACTS/PRICE AGREEMENTS

Contracts and price agreements are established to comply with the statutes where multiple departments use the same or similar products or service and/or the cumulative total of expenditures exceeds \$50,000. City purchasing is decentralized. Departments are solely liable for exercising control and tracking expenditures to avoid violating the competitive bid process on expenditures exceeding \$50,000. .

Should the anticipated or cumulative total for any single item, multiples of the same item, components or services be expected to exceed \$50,000, the Purchasing Division must be informed to determine the procurement method and whether an annual contract will be required.

11.1 Obligation of City and Contractor to Use Contract

1. The contractor has an obligation to furnish all materials and/or services against the contract and the City has an obligation to order materials and/or services covered by the contract on an as-needed basis from the successful contractor.
2. Items that are on existing contract with a vendor should not be procured from any other vendor. This may constitute a breach of contract and may result in violations of the competitive bidding statutes.
3. The contract takes precedence over all other pricing. For example, if Vendor A holds the contract for office supplies, the City cannot procure said supplies from Vendor B, even though the price may be lower at the time of purchase. *The City is under contractual obligation to purchase from Vendor A.*

11.2 Renewal of Contract/Price Agreements

1. Whenever possible, annual contracts will have an option for extension for at least one (1) year. This option must be exercised prior to the completion of the annual contract and mutually ratified by both parties.
2. The City department(s) utilizing the item(s) on an annual contract will define the requirements and make any recommendations for extension of the contract. Departments are encouraged to fill-out vendor performance evaluation forms to assist in contract management.
3. Recommendations will be based on service, delivery, quality of materials and customer service. Departmental recommendations to renew or cancel annual contracts should be submitted to the Purchasing Division no less than 120 days prior to expiration of the existing contract.
4. The 120-day notice is required to allow sufficient time to notify the contractor of cancellation and to re-bid the contract or to advise the Mayor and City Council of the intent to renew. All renewals are at the discretion of the Mayor and City Council.
5. In the event that the Purchasing Division does not receive a recommendation from the user department, the Purchasing Division will assume the responsibility of preparing the recommendation to either extend the contract or re-advertise for new bids.

12.0 BID/PROPOSAL SPECIFICATIONS

A specification provides an accurate description of a particular commodity or service to be procured. The