

COLLIN COUNTY

PURCHASING

MANUAL

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TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION	3
I. STATEMENT OF GENERAL POLICY	4
II. PURCHASING AUTHORITY AND GENERAL GUIDELINES..... ..	5
III. REQUISITIONS	6
IV. ACQUISITION OF ITEMS FROM SUPPLY	7
V. PURCHASE OF MATERIALS, SUPPLIES & CAPITAL ITEM ..	8
VI. BIDDING PROCESS AND PROCEDURES	12
VII. SPECIAL PURCHASES	16
VIII. INSPECTING, TESTING AND RECEIVING	24
IX. COUNTY-OWNED SUPPLIES AND EQUIPMENT	25
X. LEGAL BASIS FOR PURCHASING	27
XI. VALUES AND GUIDING PRINCIPLES OF PUBLIC PROCUREMENT 31	
XII. LOCAL GOVERNMENT CODES	32

INTRODUCTION

This manual contains the authorized procedures for purchasing by County officials and employees. These procedures are promulgated by the Collin County Commissioners' Court, and changes in the contents of this manual shall be made only by the Court.

County purchasing procedures are governed by Texas statutes, Local Government Code, Chapter 262. These statutes, including interpretations of them made by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the procedures described in this manual are based on state law, this manual, in many instances, contains language taken directly from statutes, and paraphrases of and broad generalizations about Texas statutory law have been included where appropriate to assist in applying the law in routine situations. This manual cannot address every situation; and, when an unusual situation occurs or a difficult legal or factual problem arises, the exact statutory language must be reviewed and analyzed. In every situation, the final authority for county purchasing procedures is the Commissioners' Court.

This manual has been adopted by the Commissioners' Court for the use of Collin County employees and officials and is designed to assist them in complying with the laws governing county purchasing procedures. This manual does not create any rights of individuals or entities enforceable against Collin County.

I. STATEMENT OF GENERAL POLICY

It is the policy of Collin County that all purchasing shall be conducted strictly in accordance with the laws of the State of Texas and policies adopted by the Collin County Commissioners' Court. The County will consider:

1. The price.
2. The quality of the product.
3. The suitability of the product for the intended use.
4. The ability, experience, efficiency, integrity, and financial responsibility of the bidder. Where appropriate, the County shall require the bidder to demonstrate that it has a good safety record.

Collin County intends to maintain a cost effective purchasing system conforming to good management practices. To be successful, the system must be backed by proper attitudes and cooperation of not only every department head and official, but also every supervisor and employee of Collin County. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The purchasing process is not instantaneous. Time is required to complete the steps required by State Law. In order to accomplish timely purchasing of products and services at the least cost to Collin County, all departments must cooperate fully. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

II. PURCHASING AUTHORITY AND GENERAL GUIDELINES

The statutory responsibility of the Purchasing Agent is to purchase all supplies, materials, and equipment required or used, and contract for repairs to property used by the County. The Purchasing Agent shall supervise all purchases and contracts required by law to be made on competitive bid. The Purchasing Agent maintains surplus inventory and disposes of all excess, obsolete or unserviceable equipment by auction or other means as provided by law.

County purchasing procedures are governed by Texas statutes, Local Government Code, Chapter 262. These statutes, including interpretations made by Texas courts, are the ultimate authority on the validity of purchasing procedures.

General guidelines for purchasing and utilization of this manual are as follows:

- A. Determine if the needed items are stocked by the County. If so, they may be obtained in the manner described in Section IV.
- B. If the item is not stocked by the County, submit a requisition to Purchasing.

III. REQUISITIONS

A. Necessity of Requisition

A requisition is required to be submitted to Purchasing for all items (LGC 113.901). The purpose is:

1. To inform Purchasing of the requesting department needs.
2. To identify correctly and clearly the item requested.
3. To confirm that funds are available.

Requisitions must be submitted well in advance of the time that the department needs the item to enable Purchasing to find a vendor, to comply with all applicable purchasing requirements, and to allow for delivery by the vendor.

B. Processing Requisition

Processing of the requisition depends upon the manner in which the requisitioned items are to be obtained.

1. Items available from a County stock room. (See Section IV)
2. Items not available through a County stock room must be acquired through Purchasing. (See Section V)

IV. ACQUISITION OF ITEMS FROM STOCK ROOM

A county stock room (central supply) will be maintained for use by all departments. Departments may obtain materials directly from this stock room through supply requisition. **Items to be stocked include:** Paper, toner, and ribbons for most copiers, faxes, and computers.

A. Purchase Order Unnecessary

Materials and supplies in the stock room have already been purchased by the County based upon anticipated needs. Consequently, a purchase order is not needed to obtain such items, only a supply requisition.

V. PURCHASE OF MATERIALS, SUPPLIES, AND CAPITAL ITEMS

A. General

Materials and supplies not available from a stock room and capital items (items greater than \$5,000.00), are acquired through Purchasing. Additionally, contracts for repairs to property used by the County are obtained through Purchasing.

The Purchasing Agent shall attempt to use competitive bidding to the extent practicable (LGC 262.0241) for the purchase of all items, even those not specifically required to be competitively bid under the law.

B. Responsibilities of Purchasing and Requesting Departments

1. Purchasing's responsibilities are to:

- a. Obtain information about and understand the needs of the departments of the County.
- b. Secure products for department's need at the lowest cost to the County of the same or better quality within a reasonable delivery time.
- c. Know the sources for and availability of needed products and/or service.
- d. Aid and cooperate with all departments of the County to meet their equipment and supply needs.
- e. Solicit requesting department's advice for vendor recommendation to facilitate delivery of materials that will meet department's needs and specifications.

2. Requesting Departments' responsibilities are to:

- a. Make requests early enough to allow sufficient time for Purchasing to acquire the item and the vendor to make delivery.
- b. Prepare and submit to Purchasing all specifications that may be needed.
- c. Maintain on file with Purchasing a written list of all department personnel (besides the department head or County official) who are authorized to prepare and/or approve requisition forms.
- d. In speaking with vendors, County Employees should take no actions which might be viewed as obligating or committing the County.
- e. Obtain approval of the Data Processing Department for all computer equipment and software requested to be purchased.

C. Purchasing Procedure

All expenditures exceeding the statutory bid limit of \$50,000.00 shall be made in accordance with V.T.C.A. Local Government Code, and Chapter 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES.

All expenditures for purchases below the statutory bid limit shall follow the guidelines set forth below:

Guidelines for Purchases at or below \$1000.00

For the purchase of an item \$1000.00 and under, only one price quote is required.

For the purchase of an item up to \$1,000.00, to the extent possible, price quotations will be solicited from a minimum of two sources to assure of fair and reasonable competition, any exception must be approved by the Purchasing Agent. Procedures for obtaining price quotations under \$50,000.00 are not established by state law and are structured to meet the needs of Collin County as authorized under Vernon's Texas Codes Annotated, Local Government Code 262.011 and 262.0245. County employees should use the following guidelines. To protect the integrity of the process, all solicitations of quotes shall comply with the following:

1. Except for the reverse auction process allowed by law and conducted only by Purchasing, vendors will not be privileged to quotes from other vendors.
2. Vendors should be rotated to ensure competition.
3. Purchasing should be contacted if additional sources for a particular product or service are needed.
4. Purchases must be continually monitored to prevent separate, sequential, or component purchases from exceeding the sealed bid limitation of \$50,000.00 from the same supplier.
5. Quotes should be submitted with a requisition to the Purchasing Department for vendor selection, price confirmation and issuance of a Purchase Order.
6. In accordance with State statutes, under no circumstance is the user department to place any order without Purchasing approval or unless a purchase order has been obtained from the Purchasing department. In accordance with Local Government Code 262.011, only the Purchasing Agent of a County can make a purchase for the County.
7. Contact Purchasing Department with any concerns or questions you may have.

Guidelines for Purchases between \$1000.01-\$20,000.00

1. Department shall submit a requisition to Purchasing for services and/or products required.
2. Department shall provide Purchasing with the scope of work and/or specifications for services and/or products required.
3. Purchasing will typically solicit a minimum of three (3) quotes to include written confirmation of prices.
4. Purchasing will issue Purchase Order to selected vendor.

Guidelines for Purchases between \$20,000.01-\$50,000.00

Written Quotes are obtained for these purchases.

1. Department shall submit a requisition to Purchasing for services and/or products required.
2. Department shall provide Purchasing with the scope of work and/or specifications for services and/or products required.
3. Purchasing shall review documents by departments to assure that the requirements are nonrestrictive for the purpose of fair and reasonable competition. Purchasing shall incorporate appropriate Collin County Terms and Conditions to develop the Request for Quotation(s). Request for Quotation(s) will be forwarded to prospective vendors and shall state a specific date, time and location for quote submittal.
4. Departments should allow adequate time for processing orders in this category.

Note: This process, generally, may be accomplished in approximately seven (7) days to twenty-one (21) business days (depending on the nature of the services and/or products sought). This process does not require submission to Commissions' Court, yet follows an abbreviated parallel to the sealed bid process.

When items are received, either the dock or the requesting department must inspect and confirm to Purchasing that items were received in acceptable condition according to PO terms. If delivered in unacceptable condition, Purchasing will follow-up with vendor in order to attempt to correct any problem. Capital items (valued at \$5,000.00 or greater) are "tagged" for County inventory by Purchasing. Items on the Attractive List and those meeting criteria as set for by Commissioners' Court will also be tagged for tracking purposes. Payment will be processed by the Auditor in accordance with the terms of the PO, bid or contract.

For items requiring payment in advance, such as subscriptions or conference registration, Purchasing may issue Payment Only POs. Requisition submission is the same as above; however, the requesting department must provide backup documentation, such as subscription notices or conference registration

forms, to the Auditor before payment can be processed. Pick-up purchase orders may be issued for specific purchases as approved by the Purchasing Agent and are limited to purchases of items which cannot be planned for in advance; for example, items needed when there is equipment breakdown. Departments may either pick up the PO from Purchasing and hand deliver it to the authorized vendor OR the vendor may receive a PO number from Purchasing over the phone to execute the order. Once the items are received or services completed, the PO is processed in the same manner previously described.

Items not received by PO due date will be followed up by Purchasing and the Requesting department will be notified of any delays or problems.

VI. BIDDING PROCESS AND PROCEDURES

A. Bid Procedures -- Statutory Limits

The law (LGC 262.023) sets limits for requirements of formal bids. No specifications are to be written with the intent to exclude a possible bidder. LGC 262.028 allows that competitive bidding can be let on either a lump sum or a unit price basis. If unit price bids are solicited, the approximate quantities of each item needed are to be estimated in the requisition based on the best available information.

B. Requesting Department's Responsibilities

1. Obtain bid procedure information from the Purchasing Department.
2. Provide bid specifications and approximate quantities based on the available information with an agenda request for Commissioners' Court to the Purchasing Department.
3. Submit a suggested vendor list, if desired.
4. Attempt to return the bid information (Item 2) to Purchasing (not less than fourteen (14) days before Commissioners' Court agenda deadline); or in the case of a required budget amendment, at least 14 days prior to agenda deadline for routing to the Auditors Office and Budget Office.
5. Be present at the meeting of the Commissioners' Court during which the bid specifications are discussed.

C. Purchasing Department's Responsibilities

1. Determine if such item(s) requires competitive bidding. (LGC 262.023), competitive proposal procedures. (LGC 262.030), or for construction (GC 2267)
2. Determine practicality to prepare detailed specifications, and notify Commissioners' Court. If impractical to prepare detailed specifications, the Commissioners' Court by order may adopt an alternative multi-step competitive proposal procedure. (LGC 262.0295)
3. Review bid specifications to determine adequacy in light of general requirements and to insure that they are not restrictive. Purchasing Department will not modify requesting department's specification without written permission by author.
4. Prepare final bid specifications for Commissioners' Court approval.
5. Finalize agenda request and notify the department of agenda date.

6. Following Commissioners' Court approval, post bid notice and/or specifications to vendors and insure publication of all legally required notices.

D. Bid Opening/Receipt of Proposals

All bids and proposals will be received by the Purchasing Agent (LGC 262.026). The Purchasing Agent's stamped, clock-in time will be the official time of receipt. The Purchasing Agent will open all formal bids and proposals in an open public forum on the designated time and day. Bids will be read aloud and recorded. Purchasing will furnish copies of the bids to the requesting department and the evaluation committee.

Proposals solicited according to LGC 262.0295 and 262.030 shall be opened by Purchasing so as to avoid disclosure of contents to competing offerors. The contents of competing offers shall be kept secret during the negotiation/evaluation process, but shall be open for public inspection after the contract is awarded. Trade secrets and confidential information contained in the proposal, so identified by offeror as such, will be treated as confidential by Collin County to the extent allowable in the Open Records Act.

Proposals solicited according to GC 2267 shall be opened in an open forum at the designated time and date, proposals will be read aloud and recorded, and contents of proposals shall be open for public inspection after the contract is awarded.

E. Bid Recommendations

After examining copies of all the bids, the requesting department and/or evaluation committee will send a written recommendation and court agenda request to Purchasing at least fourteen (14) days prior to the deadline for Commissioners' Court agenda. If a recommendation is made to accept other than the lowest compliant bid, each lower bidder must be notified of such fact and given an opportunity to present evidence to the Commissioners' Court of reasons why its bid should be accepted. After certification of recommendations, Purchasing will notify the department and present bids and a bid recommendation to the Commissioners' Court. In evaluating each bid, the Evaluation Committee will consider:

1. Price.
2. The quality of the product.
3. The suitability of the product to the intended use.
4. The ability, experience, efficiency, integrity, and financial responsibility of the bidder.
5. If appropriate, the safety record of the bidder determined by:
 - a. Number of OSHA complaints and fines.

- b. Programs the contractor has in place to conduct safety meetings with his staff and that of the subcontractors' employees.
- c. Number of lost time accidents occurring in the past 24 months.

F. Proposal Recommendations

After examining copies of all proposals, the Purchasing Agent and evaluation committee shall conduct discussions and negotiate with responsible proposal offerors. Offerors will be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Revisions are permitted after submission and before award for the purpose of obtaining the best and final offer (LGC262.030). The requesting department and/or evaluation committee will send an agenda request along with a written recommendation for proposal award to Purchasing at least fourteen (14) days prior to the deadline for Commissioners' Court agenda. The Purchasing Agent shall present the best and final offer to Commissioners' Court for award.

G. Bid Award

Unless all bids are rejected, bids will be awarded to the responsible bidder who submits the lowest and best bid.

When only one bid is received by the County, the bid may be accepted if the Commissioners' Court determines the price is fair and reasonable. If the price is not fair and reasonable, Commissioners' Court will reject and seek new bids.

If two or more responsible bidders submit identical bids, the bid award will be made by drawing lots in a manner prescribed by the County Judge.

After award of a contract, but before the contract is executed, the Commissioners' Court may authorize the Purchasing Agent to negotiate a modification of the contract, only if the modification is in the best interests of the County and does not substantially change the scope of the contract or cause the dollar amount of the contract to exceed the next lowest bid. The Purchasing Agent will forward any modification to Commissioners' Court for approval before it becomes effective.

H. Bonds

A vendor awarded a contract may be required to post bond, which requirement, if applicable, will be included in the bid advertisement. A bid bond in an amount not less than 5% of the total contract price may be required if a contract involves construction of public works or is a contract that exceeds \$100,000. A performance bond may be required for all contracts in excess of \$50,000 [LGC 262.032 (b)]. This subsection does not apply to a performance bond required to be furnished by Chapter 2253, Government Code.

I. Acquisition of Item After Bid Award

Following award of the bid contract by the Commissioners' Court, the requisition is processed in the manner described in Section V.

J. Change Orders

A change order may be required when it becomes necessary to make changes after performance of the contract has commenced. A representative, designated by the Commissioners' Court, may authorize a change order not to exceed 25% of the total contract amount, providing that the amount does not exceed \$5,000. Each change order and amount is to be posted as notification to the Commissioner Court members. Emergency change orders, exceeding the above amount, may be approved by the County Judge and ratified by Commissioners' Court. Change order requirements for specific contract items will be included in the contract documents.

K. Addenda

Purchasing Agent as authorized by Commissioners' Court may extend bid and proposal opening dates by addendum to the original specifications. (LGC 262.026)

An addendum may be issued by the Purchasing Agent to correct, clarify or modify a bid or proposal request prior to receipt / opening date. Purchasing will make every effort to make any and all addenda available to all prospective bidders. Purchasing shall inform the Commissioners' Court at the next court date of all addenda issued.

L. Excluded Parties/Federal Debarred Vendors

No purchase utilizing Federal funds may be made from vendors that are currently included on the Federal Excluded Parties List.

The following requirement shall be included in the Invitation to Bid or Request for Proposal documents if the expected purchase with Federal funds is anticipated to exceed \$100,000.

Certification of Eligibility: This provision applies if the anticipated Contract exceeds \$100,000.00 and as it relates to the expenditure of federal grant funds. By submitting a bid or proposal in response to this solicitation, the Bidder/Quoter/Offeror 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/Quoter/Offeror will notify the Collin County Purchasing Agent. Failure to do so may result in terminating this contract for default.

VII. SPECIAL PURCHASES

A. Non budgeted Capital Purchases

If the needed capital item was not included as part of the County budget, the following procedures should be followed in order to obtain budgetary authorization.

1. The requesting department must fill out a court agenda request form with an attached memo justifying the need for the item.
2. The requesting department shall include in the memo a cost estimate and a statement of whether there are available departmental funds which may be used for this purchase.
3. The agenda request with the required attachments shall be forwarded to Purchasing. Purchasing will check availability of item in inventory and verification of pricing.
4. Purchasing will complete the purchasing portion of the agenda request and forward to the Budget Office.
5. The Budget Officer will complete the financial portion of the agenda request and forward to the County Auditor.
6. The County Auditor will complete the Auditor's portion of the agenda request and submit to Commissioners' Court.
7. A representative from the requesting department should be present at the Commissioners' Court meeting when the request is considered.
8. The Commissioners' Court will approve or decline the request.
If approved, appropriate procedures shall be followed.

B. Acquisition under a Blanket Purchase Order

1. Authorization of Blanket Purchase Order

A blanket purchase order authorizes a County department to purchase miscellaneous items on an as needed basis. A blanket purchase order will be issued for a specific "not to exceed dollar amount", list specific terms and conditions and provide a list of Collin County personnel authorized to pick up such items. Blanket purchase orders are authorized at the discretion of the Purchasing Agent only in appropriate circumstances, i.e. vehicle repair parts, electrical and office supplies.

Blanket purchase orders anticipated to exceed statutory limits during the course of a year must be competitively bid. No blanket purchase order may exceed budgeted funds for such purchases by the department.

2. Procedure for Acquisition under Blanket Purchase Order

A. Procedures to acquire Office Supplies are as follows:

- 1.) Requesting department enters a requisition for Blanket Order.
- 2.) Requisition is routed to Purchasing through established approval process.
- 3.) Purchasing enters/issues Blanket Purchase Order
- 4.) Department orders direct via Internet (desktop)
- 5.) Department receives materials next day for orders placed by 5:00 p.m.
- 6.) Department signs off on packing list verifying receipt and forwards to County Auditor for payment.

B. Procedures to acquire all other goods and/or services (excluding Office Supplies are as follows:

- 1.) Requesting department enters a requisition for Blanket Order.
- 2.) Requisition is routed to Purchasing through established approval process.
- 3.) Purchasing enters/issues Blanket Purchase Order
- 4.) The requesting department will pick-up or receive items throughout the effective period according to the terms of the contract.
- 5.) The requesting department will retain receipts and/or delivery tickets for all items picked up or delivered during the effective period.
- 6.) At the end of each two week period, the requesting department will receive all items into HTE, generating a Receiving Report. The receiving report will be forwarded to the Auditor's Office with corresponding packing slip/delivery ticket(s) for payment.

C. Competitive Proposal Procedure

Insurance, high technology items, landscape maintenance, travel management, and recycling, may be purchased through an alternative competitive proposal procedure.

1. Procedure

a. Requisition

A department needing special services (LGC262.030) must prepare a detailed description of the service required. Purchasing will develop a “request for proposal” (RFP), arrange for public notice, an agenda date, notify the department, and forward the RFP to the Commissioners’ Court.

b. Request for Proposal

The purpose of an RFP is to provide details to a potential service provider about the nature of services the department is seeking. The RFP should include at least the following.

- (1) A general description and explanation of the project or service required.
- (2) Objectives of the project.
- (3) Required content of proposal to be submitted.
- (4) Criteria for acceptance of proposal.
- (5) Relative importance of proposed contract price.
- (6) Other pertinent evaluation information.

c. Solicitation of Proposals

After approval by the Commissioners’ Court, Purchasing will request proposals from potential providers and will order advertisement of the request. Purchasing shall open proposals on the date specified in the request. Confidential and trade secret information, identified as such in the proposal, shall not be publicly disclosed, but the remainder of the proposal shall be open for public inspection following award of the contract.

d. Evaluation of the Proposals

The department head and evaluation committee, with the assistance of the Purchasing Department, may conduct further discussions and negotiations with responsible offerors after the opening and will evaluate each proposal. All offerors will receive fair and equitable treatment with regard to such discussions and negotiations. The evaluation of each service provider will cover at least the following:

- (1) General quality and responsiveness.
- (2) Organization and personnel.
- (3) Price and price breakdown or price range and cost schedule.

(4) Responsibility of offeror.

e. Recommendation

The evaluation committee will submit a written recommendation to Purchasing, who will arrange an agenda date, notify the department, and transmit the recommendation to the Commissioners' Court.

The Commissioners' Court will either approve or reject the recommendation for award of contract. A purchase order will be issued for the services if the contract award has been made. (See Section V of this manual.)

Any exceptions to the procedures outlined above must be approved, in writing, by the County Judge.

D. Professional and Personal Services

1. Definition of Professional Services

In accordance with Vernon's Texas Codes Annotated, Government Code, 2254, professional services of accountants, architects, optometrist, registered professional engineers, physicians, and surgeons are procured through the "Request for Qualifications" (RFQ) process. The selection of providers of professional services under G.C. 2254 will be based on demonstrated competence and qualifications of the firm or individuals and shall not be based on competitive bidding. Departments requiring professional services with the assistance of Purchasing must review the experience and capabilities of the prospective service providers through proposals and interviews and submit a recommendation together with back-up information to Purchasing for submission to and approval by the Commissioners' Court.

a. Procedure

- (1) A department needing professional services must submit an electronic requisition, a detailed description of the scope of services required, and a list of at least three recommended providers to Purchasing. Purchasing will develop a "Request For Qualifications", submit to department for review, and upon department approval solicit for qualification proposals.
- (2) An evaluation committee will be established to determine the best qualified based on pre-established evaluation factors. This pre-established list shall be developed by the using department and Purchasing.

- (3) Upon selection of the best qualified, the committee will begin negotiations with that vendor. Should an equitable agreement not be reached, negotiations shall cease with this vendor. Negotiations will then begin with the 2nd best qualified. This process shall continue until an agreement can be reached.

2. Definition of Personal Services

Personal services are services contracted to be performed by only one person.

- E. Emergency Purchases (LGC 262.024)

An emergency is defined as any previously unforeseen situation of which, if not immediately addressed, will result in immediate work stoppage or operational stoppage substantially detrimental to the required operation of county government or an issue detrimental to the public health and/or safety of the residents.

Emergency purchases may be processed, depending upon the time of the emergency and type of purchase necessary, according to one of the following procedures, however, all purchases must comply with state procurement procedures.

1. After hour's emergency

Every effort will be made to make contact with purchasing personnel. If required, when County offices are closed, and purchasing staff are unavailable, the department may take the necessary action to obtain the needed goods or services if the expenditure is under the statutory limit of \$50,000.00. If the department is aware that the purchase involves an expenditure of over statutory bid limits, authorization can only be given by the County Judge. The next working day, the department should contact Purchasing to submit a requisition and obtain a purchase order with a subsequent ratification agenda item. Procedures applicable to phone in purchase orders may be followed, if authorized.

2. Emergency during working hours

If required when County offices are open all purchases must be through the County Purchasing Department.

- F. Sole-Source Purchases [LGC 262.024(a) (7)]

Typical items considered sole source purchases include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts or components for equipment, and films, manuscripts, or books. Such items may be purchased from a sole source without competitive bidding only after the Purchasing Agent, in writing, certifies the existence of

only one source to the Commissioners' Court and the Court enters a finding of such in its minutes.
[LGC 262.024(c)]

G. Equipment Maintenance

Fleet/Vehicle - Maintenance on County Fleet units (as defined by the County Fleet Operations and Maintenance Manual, C.O. 90-920-11-12) shall be performed by Equipment Services or contracted out by Equipment Services through standard Collin County Purchasing procedures. Department requiring maintenance should contact Equipment Services at the County Service Center.

Departments requiring maintenance for non vehicular equipment (i.e., office copiers, etc.) shall contact Purchasing to arrange contract service. After equipment has been serviced, the department shall forward the service ticket or other repair documents to Purchasing.

H. Personal Property Sold

The Purchasing Agent, without competitive bid, may purchase personal property sold at an auction by a state licensed auctioneer, at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code, or by a political subdivision of the state agency of this state, or an entity of the federal government.

I. Item(s) exempt from Competitive Bidding

1. Purchasing shall receive quotes on all items that may otherwise be exempt from competitive bidding. A contract for the purchase of any of the following items is exempt from competitive bidding if the Commissioners' Court by order grants the exemption.
[LGC262.024 (a)]

- a. An item 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.
- b. An item necessary to preserve or protect the public health or safety of the residents of the county.
- c. An item necessary because of unforeseen damage to public property.
- d. A personal or professional service.
- e. Any work performed and paid for by the day, as the work progresses.
- f. Any land or right-of-way.
- g. An item that can be obtained from only one source, provided that the Purchasing Agent submit a signed statement as to the existence of only one source to the

Commissioners' Court which statement will be entered in its minutes, which include:

- (1) Items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies.
 - (2) Films, manuscripts, or books.
 - (3) Electric power, gas, water, and other utility services.
 - (4) Captive replacement parts or components for equipment.
 - h. Any item of food.
 - i. Personal property sold:
 - (1) At an auction by a state licensed auctioneer.
 - (2) At a going out of business sale held in compliance with subchapter F, chapter 17, Business & Commerce Code.
 - (3) By a political subdivision of this state, a state agency of this state, or an entity of the federal government.
 - j. Any work performed under a contract for community and economic development made by a county under LGC 381.004.
2. The renewal or extension of a lease or of an equipment maintenance agreement is exempt from competitive bidding if Commissioners' Court by order grants the exemption [LGC262.024 (b)] and if:
- a. The lease or agreement has gone through the competitive bidding procedure within the preceding year.
 - b. The renewal or extension does not exceed one year.
 - c. The renewal or extension is the first renewal or extension of the lease or agreement.
3. The exemption under Subsection (1) (h) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food by telephone or written quotation at intervals specified by Commissioners' Court. The County shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The Purchasing Agent shall use electronic and/or manual forms to record the food purchase quotes as a record of all bids solicited and the

vendors contacted, at least once a year in accordance with LGC 262.024(d), on a form approved by Commissioners' Court. This record shall be kept in the purchasing office for a period of at least one year or until audited by the County Auditor.

This list may be changed by statute.

- J. Used Equipment or Capital Items
The Purchasing Agent may purchase used equipment or capital items from Texas Surplus Property Agency or various auctions. [LGC 262.024(9) (a) (A), (B), (C)]

VIII. INSPECTING, TESTING, AND RECEIVING

It is the responsibility of each County department and Purchasing to see that all purchased items conform to the quantity, quality, and specifications of the order.

If items are unacceptable, the requesting department must immediately notify Purchasing of such fact and the reasons the item is not acceptable. Purchasing will then compel replacement, cancel the order, or take other appropriate action to obtain an acceptable item. If replacement or other appropriate action cannot be achieved within a time frame acceptable to the requesting department, the PO shall be canceled.

Purchasing may assist other County departments in making arrangements to use outside testing laboratories.

IX. COUNTY-OWNED SUPPLIES AND EQUIPMENT

County-owned supplies, equipment, and machinery must be used only for County business. Elected Officials and Department Heads are responsible for the proper accounting for, maintenance of, and use of County equipment. If an Elected Official or Department Head allows an employee to take County property home, a letter must be sent to Purchasing describing the item, the County inventory number, and the employee's name. It is the responsibility of the Elected Official or Department Head to notify Purchasing, in writing, when the property is returned.

A. Receipt of New Property - Tagging

Furniture, equipment, and other property designated by Commissioners' Court will be tagged for inventory purposes by Purchasing after the receiving department confirms items are acceptable.

B. Transfer of Property

The Purchasing Agent is authorized by Commissioners' Court to transfer supplies, materials and equipment among the various County departments. The transfer or trade of any equipment from one department to another must be handled through Purchasing. In the event an item is no longer required, the department will notify the Purchasing Department in writing.

The Purchasing Department and each department are encouraged to make inquiries as to unused or unneeded equipment in the possession of other departments, but the decision as to whether the property is unneeded ultimately rests with the Commissioners' Court.

The Purchasing Agent shall provide a record of transferred items to the County Auditor and Commissioners' Court at the end of each fiscal year.

C. Missing Property

Lost or stolen property must be reported immediately. Reports of loss or theft must be made by the Elected Official or Department Head in writing to the Purchasing Agent and the Risk Manager. Reports of theft must have attached a copy of the theft report compiled by the proper law enforcement agency.

If an item cannot be located, Purchasing will request the Commissioners' Court to declare the item lost or stolen. Items declared lost or stolen will be removed from inventory controls.

D. Disposal of Surplus or Salvage Property

Commissioners' Court will periodically authorize the Purchasing Agent to dispose of "surplus" (in excess of needs, but still useful) or "salvage" (valueless property of no use) properties. Surplus or salvage property may be sold by competitive bid or auction by the Purchasing Agent.

County employees will be given the same opportunity afforded to other persons to bid on and purchase surplus properties offered for sale.

E. Inventory Arrangements - Resignation, Retirement, or Removal

When an elected official or a department head leaves County employment, arrangements should be made with Purchasing for equipment inventory far enough in advance to insure that the inventory can be taken before the termination date if possible. The Purchasing Agent will provide the Auditor and Commissioners' Court a full report, noting any discrepancies between property actually located and property listed on the inventory. The County official or department head will be personally accountable to the Court for all missing items.

An Elected Official or department head will be given an inventory listing at least once a year of the items for which he is responsible. Annual inventory listing shall be verified by each Elected Official or Department Head and returned to Purchasing Department.

F. Annual Inventory

On July 1 of each year the Purchasing Agent shall file an inventory of all property of the County with the County Auditor and each member of the County Purchasing Board. The inventory shall include all property identified in Subsection A, above.

X. LEGAL BASIS FOR PURCHASING

A. Title 10, Vernon's Revised Civil Statutes, Chapter 2254-Professional and Consulting Services

Counties may not bid contracts for professional services; it must select the most highly qualified provider for requested services and then negotiate a contract. Contracts must be awarded on the basis of "demonstrated competence and qualification to perform the service." Fees must be "fair and reasonable", consistent with and not in excess of, published recommended practices fees of applicable professional organizations, and not in excess of any maximums specified by state law. "Professional services" includes services within the scope of the practice of: accounting, architecture, land surveying, optometry, medicine, or professional engineering. This includes services performed by any licensed architect, land surveyor, optometrist, physician, surgeon, certified public accountant or registered professional engineer in connection with his or her professional employment or practice.

B. Purchase Under State Contract, LGC Chapter 271, (D)

The comptroller shall establish a program by which the comptroller performs purchasing services for local governments (including counties). A County which purchases under state contract satisfies all competitive bidding laws.

C. Conflict of Interest, LGC Chapter 171

Ownership of certain property or business interests may require that a local public official refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision or act involves the business interests or property owned by the public official or by a person related to the public official within the first degree of consanguinity or affinity. A person is deemed to have a substantial interest in a "business entity" if:

1. Ownership of ten per cent (10%) or more of voting stock or shares of the business entity, or ownership of 10% or more or \$5,000 or more of the fair market value of the business entity.
2. Proceeds received from the business entity exceed ten per cent (10%) of the person's gross income for the prior year.
3. A person is deemed to have a substantial interest in real property if the interest, whether involving equitable or legal ownership, has a fair market value equal to or exceeding \$2,500. A local public official is deemed to have a substantial interest in the business entity or in land if a person related to the official within the first degree by consanguinity or affinity has a substantial interest in said business entity or land as defined above.

If the local public official has a substantial interest in a business which seeks to do business with the County, the official must file with the County clerk an affidavit stating clearly the

nature and extent of his interest. The public official must then abstain from participation in any matter involving or between the County and the business in which he has the substantial interest. In particular, this includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business or contracts with the County. An official may not knowingly act as a surety on any official bond required of an officer of the County. A violation of any of these is a crime (CLASS A misdemeanor). (See Section XI, Samples)

The County Commissioners' Court may, however, contract for services or personal property with a business entity in which a member of the Court has a substantial interest if the business entity is the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners' Court, and bids on the contract.

The Commissioners' Court must take a separate vote on any budget item which is specifically concerned with a contract involving a business entity in which a member of the Court has a substantial interest. The Commissioner having the substantial interest may not participate in that separate vote; he may, however, vote on the final budget if he has otherwise complied with the requirements of LGC 171, some of which are indicated above, and the matter regarding the business entity with which the member is concerned by virtue of his substantial interest has been resolved.

* Citations to "Code" or "LGC" are to the newly codified Local Government Code.

"Local public official" includes members of the County governing body or other County officers, whether elected or appointed, paid or unpaid.

D. County Purchasing Agent, LGC 262, Subchapter B

Counties having population of more than 150,000 may have a Purchasing Agent appointed, for a two (2) year term, by a majority vote of a board composed of three judges of the district courts in the County and two members of the Commissioners' Court of the county.

The County Purchasing Agent "shall" purchase all supplies, materials, and equipment required or used by the County and "shall" contract for all repairs to County property, except purchases and contracts required by law to be made on competitive bid.

It is unlawful for any other person, firm or corporation, other than the County Purchasing Agent, to purchase supplies, materials, or equipment or to contract for repairs to property used by the County, LGC 262.011(d). The County Auditor may not pay for any purchase unless that purchase has been made by the County Purchasing Agent or by competitive bid as required by law [Id. (f)].

The agent has a number of other duties which are specifically set out in LGC 262.011. The County Purchasing Agent may cooperate with a City Purchasing Agent to purchase items in volume [Id. (g)]. The County Purchasing Agent is responsible for filing with the County Auditor and each member of the County Purchasing Board on each July 1st, an inventory of all County property on hand and belonging to the County [Id (I)].

In order to prevent unnecessary purchases, the County Purchasing Agent shall, with approval of Commissioners' Court, transfer any County supplies, materials, and equipment from any department not needing them to another department requiring them.

The authority of the County Purchasing Agent applies to all purchases of supplies, materials and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of the office or otherwise, regardless of whether the purchase contract is made by the Commissioner' Court or any other officer authorized to bind the County by contract [Id. (n)].

E. Comprehensive County purchasing statute

Procedures must be strictly complied with except for certain specific exemptions enumerated in the statute. These include certain emergencies and cases involving sole suppliers. All separate, sequential or component purchases of items are treated as parts of a single purchase or contract LGC 262.023 (c). Any County officer or employee who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in avoidance of the competitive bidding requirements of LGC 262.023 is guilty of a CLASS B misdemeanor. Automatic and immediate removal of the officer or employee from his County office or position results upon final conviction. (LGC 262.034 and 262.035)

F. Disposition of Salvage or Surplus Property, LGC 263, Subchapter D

Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

The Purchasing Agent may sell surplus or salvage property by competitive bid or by auction. It also may be offered as a trade-in on new property of the same general type. If the property cannot be sold or traded, the property can be donated to a civic or charitable organization located in the County or is destroyed.

G. Certificates of Obligation, LGC 271, Subchapter C

Certificates of Obligation (COs) are alternative financing instruments and may be issued for the payment of contractual obligations to be incurred in:

1. Public works construction.

2. Materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes.
3. Professional services.
4. Constructing or equipping a jail.
5. Constructing, renovating, or otherwise improving a County-owned building.
6. Bridge construction.

Purchases financed with COs are subject to all bid and advertising requirements.

H. Approval of Claims by County Auditor, LGC 113, Subchapter D

The County Judge has waived the requirement that he approve requisitions and all claims therefore which must now be approved by the Commissioners' Court in open court.

I. Cooperative Purchases, GC Chapter 791

Interlocal Cooperation Act-Allows local governments to contract with and between each other, to provide governmental functions and services, and to join together in contracting with others to provide goods and services.

J. Contracting and Delivery Procedures for Construction Projects, GC Chapter 2267

This chapter applies to a public work contract made by a governmental entity authorized by state law to make a public work contract.

XI

VALUES AND GUIDING PRINCIPLES OF PUBLIC PROCUREMENT

Accountability

Taking ownership and being responsible to stakeholders for our actions ... essential to preserve the public trust and protect the public interest.

Principles

- Apply sound business judgment.
- Be knowledgeable of and abide by all applicable laws and regulations.
- Be responsible stewards of public funds.
- Maximize competition to the greatest extent practicable.
- Practice due diligence.
- Promote effective, economic, and efficient acquisition.
- Support economic, social, and sustainable communities.
- Use procurement strategies to optimize value to stakeholders.

Ethics

Acting in a manner true to these values ... essential to preserve the public's trust.

Principles:

- Act and conduct business with honesty and integrity. avoiding even the appearance of impropriety.
- Maintain consistency in all processes and actions.
- Meet the ethical standards of the profession.

Impartiality

Unbiased decision-making and action ... essential to ensure fairness for the public good.

Principles:

- Be open, fair, impartial, and non-discriminatory in all processes.
- Treat suppliers equitably, without discrimination, and without imposing unnecessary constraints on the competitive market.
- Use sound professional judgment within established legal frameworks to balance competing interests among stakeholders.

Professionalism

Upholding high standards of job performance and ethical behavior ... essential to balance diverse public interests.

Principles:

- Be led by those with education, experience, and professional certification in public procurement.
- Continually contribute value to the organization.
- Continually develop as a profession through education, mentorship, innovation, and partnerships.
- Develop, support, and promote the highest professional standards in order to serve the public good.
- Seek continuous improvement through on-going training, education, and skill enhancement.

Service

Obligation to assist stakeholders ... essential to support the public good.

Principles:

- Be a crucial resource and strategic partner within the organization and community.
- Develop and maintain relationships with stakeholders.
- Develop collaborative partnerships to meet public needs.
- Maintain a customer service focus while meeting the needs, and protecting the interests, of the organization and the public.

Transparency

Easily accessible and understandable policies and processes ... essential to demonstrate responsible use of public funds.

Principles:

- Exercise discretion in the release of confidential information.
- Maintain current and complete policies, procedures, and records.
- Provide open access to competitive opportunities.
- Provide timely access to procurement policies, procedures, and records.

XII
LOCAL GOVERNMENT CODES

EXCERPTS FROM
TEXAS CODES, LOCAL GOVERNMENT CODE, SEC. 262.035 (a)
LOCAL GOVERNMENT CODE TITLE 8
ACQUISITION, SALE, OR LEASE OF PROPERTY
CHAPTER 262 PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES
TEXAS CODES ANNOTATED, GOVERNMENT CODE TITLE 10
CHAPTER 2254, PROFESSIONAL AND CONSULTING SERVICES