



City of Arlington, Texas

PROCUREMENT POLICY

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**PROCUREMENT POLICY
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CITY OF ARLINGTON PROCUREMENT POLICY

1.0 GOVERNING AUTHORITY

The primary governing authority for the City of Arlington's Procurement Policy shall be the City's Charter, in conjunction with Local Government Code Chapter 252, *Purchasing and Contracting Authority of Municipalities*. All procurement activity shall be governed by the Purchasing Manual, in accordance with applicable state and local government codes. The Mayor and Council shall from time to time review the Procurement Policy and the City's resolution shall record any changes made to the policy.

2.0 PURPOSE AND SCOPE

The Procurement Policy applies to the procurement activities of the City of Arlington. All procurement activities for the City shall be administered in accordance with the provisions of this policy, with the express intent to promote open and fair conduct in all aspects of the procurement process.

The Procurement Policy does not apply to procurement practices for major building construction/renovations, street construction, water/sewer line construction, storm sewer, drainage, water towers, or treatment plants. These types of contracts are issued by various City Departments.

3.0 OBJECTIVES

The Purchasing Division is responsible for ensuring that City departments comply with federal, state and local statutes regulating competitive sealed bids, competitive sealed proposals, professional services, high technology purchases, cooperative purchases, and emergency and sole-source purchases. The Purchasing Division solicits for all competitive procurements as required by law, evaluates bids and proposals, and makes final recommendations to the Mayor and City Council for awarding of contracts.

The Purchasing Division is a functional support division and should be included in all stages of acquisition, through planning, ordering, and receiving. A professional staff issues purchase orders (POs) and bids, and/or negotiates and executes contracts to deliver goods and services in a timely manner. This is to ensure compliance with the State of Texas competitive bid statutes and the City's purchasing policies.

The Purchasing Division is committed to providing quality service through effective teamwork and communication with City departments and vendors alike, in order to fulfill the purchasing needs of the City in a professional, responsive and timely manner in compliance with all City policies and applicable federal, State, and local purchasing laws. Public purchasing has the responsibility to obtain the most value for the tax dollar in a fair, efficient and equitable manner. To achieve this objective, the Purchasing Division seeks to foster as much competition as possible. In doing so, we adopt the goal of fairness by ensuring all who wish to compete for the opportunity to sell to the City of Arlington can do so. Our policy is intended to:

1. Give all suppliers full, fair, prompt and courteous consideration;
2. Keep competition open and fair;
3. Solicit supplier suggestions in the determination of clear and adequate specifications and standards;

4. Cooperate with suppliers and consider possible difficulties they may encounter; and
5. Observe strict truthfulness and highest ethics in all transactions and correspondence.

3.1 General Duties of the Purchasing Division:

1. Observe and enforce the policy and procedures outlined in the City of Arlington Purchasing Policy or as directed by the City Manager or his/her designee;
2. Advise and assist in the formulation of policies and procedures connected with the purchasing activities of the City, and keep the Director of Financial Services advised of such policies and procedures;
3. Investigate and analyze research done in the field of purchasing by other governmental agencies and by private industry, in an effort to keep abreast of current developments in the fields of purchasing, price, market conditions and new products;
4. Coordinate, organize, and assist departments in the specification writing process to ensure that specifications are written concisely and are not written in an exclusive manner;
5. Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City;
6. Receive, open, and evaluate competitive solicitations;
7. Act in an advisory role as a non-voting member on evaluation committees;
8. Prepare and coordinate with user departments staff reports recommending award of competitive solicitations for City Council approval;
9. Combine purchases of similar items whenever possible and practical, to allow for better pricing and establish a more competitive atmosphere;
10. Assist department heads in the disposition of junk and scrap material such as pallets, scrap pipe, paper products, etc;
11. Dispose of stolen, abandoned and recovered property coming into the possession of the City;
12. Dispose of surplus City property at public auction and record disposition;
13. Issue Sales Tax Exemption Certificates and W-9 Federal Identification Number and Certification to vendors; and
14. Conduct a purchasing class each quarter for employees who process requisitions, conduct receiving, approve purchase orders, and/or develop specifications in the automated procurement system. Additionally, individual training by the assigned Purchasing Agent is available at the request of departments.

4.0 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.

5.0 COMPETITIVE PROCUREMENT REQUIREMENTS

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 Historically Underutilized Business (HUB) vendors, if available. 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 CityNet.

Purchases of supplies and services exceeding \$50,000 are processed accordingly by the Purchasing Division, 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.

The City also accepts equivalent certifications, as approved by City Management.

5.2 Sealed Competitive Procurements (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 greater than \$50,000.

Texas Local Government Code, Section 252.062, states:

A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B Misdemeanor.

A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described in subsection (a). An offense under this subsection is a Class B Misdemeanor.

A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by subsection (a) or (b). An offense under this subsection is a Class C Misdemeanor.

Conviction for any of these offenses may result in immediate removal from office or employment.

5.3 Grant Funded Procurement

All departments shall follow the established CFR 200 Uniform Administrative Guidance Procurement Standards sections 200.317 through 200.326 and will work in conjunction with the Finance Department to ensure compliance.

During and or after an emergency/disaster, the City will follow policy in accordance with CFR 200 Uniform Administrative Guidance Procurement Standards sections 200.317 through 200.326 and the operating procedures listed in Financial Annex EMC-M

5.4 Reciprocity

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.

5.5 Award of Contract

The City of Arlington shall award contracts based on criteria deemed in the best interest of the City.

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.*

5.6 Disclosure of Information

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and applicable City policies implementing this chapter.

Texas Local Government Code Chapter 252.049(b) states, in part:

If provided in a RFP, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerers and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

5.7 Professional Services

Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Purchasing Division shall consult with departments regarding the preparation of information and evaluation criteria; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

In compliance with the City of Arlington's Local and Minority/Woman Business Enterprise (M/WBE) Policy, departments will notify the Finance Department of all consulting and professional service projects prior to issuance of request. This will allow for the identification of prime and/or subcontracting opportunities.

Consulting and professional service contracts anticipated to be an expenditure of more than \$50,000 shall be posted on the City of Arlington Procurement Portal through the Finance Department for broadcast to registered suppliers. Any consulting or professional service contract exceeding \$50,000 shall have council approval before executing.

1. Texas Government Code, Chapter 2254, Subchapter A, Professional Services, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:
 - (1) Of demonstrated competence and qualifications to perform the services;
 - (2) For a fair and reasonable price;
 - (3) Fees are allowed;

- (4) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
 - (5) May not exceed any maximum provided by law.
2. Professional Services for the purposes of Government Code Chapter 2254 are defined as those “*services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.*”

5.8 Automated Information Systems

Departments may contact the Purchasing Division for all high technology procurements so that the Purchasing Division can coordinate with Information Technology to ensure that the appropriate solicitation procedure is used.

The Purchasing Division will not process any request for automated systems or subsequent software without prior written authorization from the Information Technology Department.

1. Automated information systems include:
 - a. The computers on which the information system is automated;
 - b. A service related to the automation of the system, including computer software, or the computer; and
 - c. A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network.

5.9 Cooperative Purchases

Cooperative purchasing occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.

The Purchasing Division shall take advantage of the following types of cooperative purchases when deemed to be in the City's best interest:

- Interlocal Agreement Purchases
- State Contract Purchases
- Piggybacking
- Joint Purchases

5.10 Emergency Purchases

Valid emergencies are those that occur as a result of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Purchasing Division and conduct the procurement of supplies and services in accordance with the Purchasing Manual.

The Legislature exempted certain items from sealed bidding in the Texas Local Government Code Section 252.022(a), including, but not limited to:

1. *A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;*
2. *A procurement necessary to preserve or protect the public health or safety of the municipality's residents;*
3. *A procurement necessary because of unforeseen damage to public machinery, equipment or other property.*

5.11 Sole Source Purchases

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code.

When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a detailed written justification must be provided to the Purchasing Division in advance for review and approval.

Legal Definition

The legislature exempted certain items from sealed bidding in the Vernon's Texas Codes Annotated - Local Government Code Section 252.022 (a) 7, in part: Procurement of items available from only one source, including:

- A. *items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;*
- B. *films, manuscripts, or books;*
- C. *gas, water and other utility services;*
- D. *captive replacement parts or components for equipment;*
- E. *books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and*
- F. *management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.*

5.12 Electronic Bidding

Per City Council Resolution and Texas Local Government Code 252.0415, the City of Arlington shall receive electronic bids, quotes or proposals by electronic submission. All electronic bidding shall be

in accordance with the approved rules and guidelines adopted by City Council to ensure the identification, security, and confidentiality of electronic bids or proposals. (Appendix A)

6.0 RECOMMENDATIONS TO CITY COUNCIL

The Purchasing Division is responsible for making final recommendations to the Mayor and City Council for awarding of contracts, in accordance with approval thresholds, for all solicitations in the stated areas of responsibility.

7.0 PURCHASING MANUAL

The Purchasing Manual contains expanded explanation and process for accomplishing the procurement of goods and services in accordance with this policy. The Purchasing Manager maintains responsibility for updating the Purchasing Manual in accordance with applicable State and Local Government Codes and the Procurement Policy, as approved by City Council.