



# **CITY COUNCIL POLICY**

## **36**

### **City of Burleson Purchasing Policy**

Adopted date	July 2, 2018
Revised date	September 18, 2023

#### **CITY OF BURLESON PURCHASING POLICY**

##### **1.0 Governing Authority**

- (a) The primary governing authority for the City of Burleson's Purchasing 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 Policy, in accordance with applicable state and local government codes. The Mayor and Council shall from time to time review the Purchasing Policy and the City's resolution shall record any changes made to the Policy.
- (b) All powers of the City vest in the City Council. Authority for purchasing goods and services is delegated to the City Manager provided the purchase does not exceed \$50,000. The City Manager's authority is delegated to the Purchasing Manager, subject to the requirements of this policy and adopted purchasing procedures. In addition, authority for the following payments is delegated to the City Manager:
  - (1) Payments made pursuant to the City's compensation and benefit plans including: Payroll, TMRS, Contributions, Payments to Deferred Compensation Plans, and Accrued Employee Benefits
  - (2) Payments to the federal government or its agencies
  - (3) Transfer payments of employee deductions or garnishments
  - (4) Health insurance claims and fees
  - (5) Other insurance premiums
  - (6) Utility bills including wholesale water and wastewater treatment

- (7) Remittance to the state of Texas
- (8) Procurement card remittance
- (9) Scheduled bond or lease payments
- (c) To ensure proper oversight, all purchases and requisitions in excess of \$25,000 will be reported to Council monthly. The report will include the vendor, purpose, amount, and source of funds for the expenditure.

## **2.0 Purpose and Scope**

The Purchasing Policy applies to the procurement activities of the City of Burleson. 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.

## **3.0 Objectives**

- (a) 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 with the user department makes recommendations to the City Council for awarding of contracts.
- (b) The Purchasing Division is a functional support division and should be included in all states of acquisition, through planning, ordering and receiving. Purchasing staff issues purchase orders (PO's) 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.
- (c) 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, the City will adopt the goal of fairness by ensuring all who wish to compete for the opportunity to sell to the City of Burleson can do so. Our policy is intended to:

- (1) Give all suppliers full, fair, prompt, and courteous consideration;
- (2) Encourage open and fair competition;
- (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**

- (a) Observe and enforce the policy and these procedures outlined in the City of Burleson Purchasing Procedures Manual.
- (b) Advise and assist in the formulation of policies and procedures connected with the purchasing activities of the City, and keep the City Manager or designee advised of such policies and procedures.
- (c) Keep abreast of current developments in the fields of purchasing, price, market conditions and new products.
- (d) 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.
- (e) Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City.
- (f) Receive, open, and evaluate competitive solicitations.

- (g) Act in an advisory role as a non-voting member on evaluation committees.
- (h) Prepare and coordinate with user departments staff reports recommending award of competitive solicitations for City Council approval.
- (i) Combine purchases of similar items or services possible and practical to allow for better pricing and establish a more competitive atmosphere.
- (j) Assist department heads in the disposition of junk and scrap material such as pallets, scrap pipe, paper products, etc.
- (k) Dispose of stolen, abandoned, and recovered property coming into the possession of the City.
- (l) Dispose of surplus City property.
- (m) Conduct regular training sessions for employees involved in the purchasing process.

#### **4.0 Code of Ethics**

- (a) By participating in the procurement process, employees of the City of Burleson agree to:
  - (1) Avoid the intent and appearance of unethical or compromising practices in relationships, actions, and communications.
  - (2) Demonstrate loyalty to the City of Burleson by diligently following the City's purchasing policy and procedures, using reasonable care, and only the authority granted.
  - (3) Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Burleson.
  - (4) Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.

- (5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under a circumstance which might be construed by reasonable persons as influencing the performance of governmental duties.
- (6) Engage in no business with the City of Burleson, directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.
- (7) Handle confidential or proprietary information belonging to the City or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- (8) Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.
- (9) Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing process.
- (10) Know and obey the letter and spirit of laws governing the purchasing function, and remain alert to the legal ramifications of purchasing decisions.
- (11) Expose corruption and fraud wherever discovered.
- (12) Uphold these principles, ever conscious that public office is a public trust.

## **5.0 Competitive Purchasing Requirements**

Under no circumstances shall multiple requisitions be used in combination to avoid other applicable bidding requirements or City Council approval. Quotations and/or competitive solicitations shall be received in writing or electronically in accordance with Texas Local Government Code.

### **5.1 Procedures for Purchases less than \$10,000**

- (a) The ordering Division selects the vendor and enters a requisition in the automated procurement system. Once a purchase order is issued, the ordering division places the order and/or picks up the materials.
- (b) Purchases under \$10,000 may be made through the purchase order (PO) process. Purchases under \$3,000 may be made through the City's procurement card (P-card) program. The City Manager or designee may, on a case-by-case basis, increase the single purchase limit of a P-card to \$10,000 per purchase if such increase is necessary to cover non-reoccurring departmental expenses the purchase of which are not in violation of this Policy.
- (c) The credit limit of any P-card shall be \$3,000 per cycle. The City Manager or designee may, on a case-by-case basis, increase the credit limit of a P-card to \$10,000 per cycle if such increase is necessary to cover non-reoccurring departmental expenses the purchase of which are not in violation of this Policy.

### **5.2 Procedures for Purchases of \$10,000 to \$50,000**

- (a) All purchases greater than \$10,000 but less than \$50,000 must be processed in accordance with the following procedure:
  - (1) Purchases totaling \$10,000 to \$50,000 will require three or more quotes. Two no quotes returned equal one quote.
  - (2) Quotes will be entered in to the automated procurement system by completing an electronic requisition form.

### **5.3 Procedures for Purchases \$25,000 to \$50,000**

The Department shall initiate the formal quote process by contacting the Purchasing Division if guidance is needed to determine the best method of procurement. All requisitions over \$50,000 will require approval by Council prior to purchase order being issued. Job Order Contracts are prohibited over \$25,000.

## **5.4 Competitive Solicitations**

Is a common procurement method by which a governmental entity will indicate specific requirements and specifications through either Request for Proposals (RFP), Invitation for Bids (ITB), or Request for Qualifications (RFQ) for its purchasing need and then posts a notice inviting potential suppliers to submit responses with their offered price. The government will typically select the bidder who offers the lowest price or best value to the entity. The Purchasing Manager is the only authorized agent that can issue a competitive solicitation on behalf of the organization. If a competitive solicitation is issued that yields a price that is less than \$50,000 over the term of the proposed agreement, the City Manager may authorize any subsequent contract.

## **5.5 HUB'S**

- (a) Local Government Code Section 252.0215 states that a municipality, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two Historically Underutilized Business (HUB) 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.
- (b) A HUB is a certified business that is at least 51% owned, operated, and controlled by qualifying groups, including Asian Pacific Americans, Black Americans, Hispanic Americans, Native Americans and American Women.
- (c) The City also accepts equivalent certifications, as approved by the Purchasing Manager.

## **5.6 Purchases more than \$50,000**

- (a) 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 a competitive solicitations (e.g. sealed bids, request for proposals, and request for Qualifications.) Texas Local Government Code Section 252.021 defines the requirements for competitive bids.

(b) Texas Local Government Code, Section 252.062, states:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Conviction for any of these offenses may result in immediate removal from office or employment.

## **5.7 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.

## **5.8 Award of Contract**

(a) The City of Burleson shall award contracts based on criteria deemed in the best interest of the City.

(b) **Texas Local Government Code, Section 252.043, states, in part:**

- (1) 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.

- (2) 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.

## **5.9 Disclosure of Information**

- (a) 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.
- (b) Texas Local Government Code Chapter 252.049(b) states, in part, that if provided in a RFP, proposals shall be opened in a manner that avoids disclosure of the contents to competing offers 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.

## **5.10 Professional Services**

- (a) Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualifications (RFQ) documents, if deemed necessary by the Purchasing Manager. The Purchasing Division is available to consult with departments regarding the preparation of information; 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.
- (b) Texas Government Code, Chapter 2254, 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.

**5.11 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.**

**Automated Information Systems**

- (a) All requests for computer equipment, software, telecommunications and related services or supplies should be submitted to the Information Technology (IT) Department for review and technical evaluation. IT will review each request for compatibility with other hardware and software and will investigate alternatives.
- (b) Recommendations from IT and comments will include but not be limited to:
  - (1) Additional costs incurred because of the purchase;
  - (2) Compatibility considerations;
  - (3) Cost effectiveness of the request; and
  - (4) Alternatives that would effectively meet the users' needs.
- (c) No purchases for computer related equipment or supplies are allowed without IT approval.

## **5.12 Cooperative Purchases**

- (a) Cooperative, Joint, and Piggybacking contracts are available for use through

signed interlocal agreements. Interlocal agreements can be signed by the City Manager. All purchases as a result of that interlocal agreement must follow council policy 36.

- (b) 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 inter-local agreements, state contracts, piggybacking, and joint purchases.
- (c) The Purchasing Division shall take advantage of the following types of cooperative purchases when deemed to be in the City's best interest:
  - (1) Inter-local Agreement Purchases;
  - (2) State Contract Purchases;
  - (3) Piggybacking; and
- (d) Joint Purchases.

Cooperative quotes that exceed \$50,000 must also be accompanied by documentation of steps taken to provide assurance that the cooperative price is competitive with current market pricing.

### **5.13 Emergency Purchases**

- (a) 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.
- (b) 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; and
- (3) A procurement necessary because of unforeseen damage to public machinery, equipment or other property.

#### **5.14 Sole Source Purchases**

- (a) 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. Per the local government code, items include:
  - (1) Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
  - (2) films, manuscripts, or books;
  - (3) gas, water and other utility services;
  - (4) captive replacement parts or components for equipment;
  - (5) 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
  - (6) 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.

#### **5.15 Legal Review**

The City Attorney shall review all documents, contracts and legal instruments in which the City may have an interest, unless otherwise determined by the City Attorney. Equipment, materials, supplies, and service contracts bearing any special terms and conditions, other than administrative provisions, not previously approved by the City Attorney, shall be submitted for such approval and must receive approval prior to issuance. Review and approval by an attorney at TOASE

or by the Deputy City Attorney shall constitute the review and approval by the City Attorney required under this Section.

### **5.16 Signature Authority**

- (a) Only the City Manager has signature authority to execute contracts of any nature. Such signature authority is detailed and delegated below:
  - (1) The City Manager has authority to execute contracts under \$50,000.
  - (2) The City Manager has authority to execute contracts equal to or in excess of \$50,000 if approved by City Council in the annual budget or as a city council agenda item.
  - (3) The Deputy/Assistant City Manager authority to execute contracts under \$25,000;
  - (4) The Purchasing Manager has authority to execute contracts under \$10,000;
  - (5) Department Directors have authority to execute contracts under \$3,000;
  - (6) The City Manager may designate in writing a city employee to sign contracts in his absence. All contracts executed under this section must be compliant with the city's purchasing policy and compliant with all retention schedules as designated by the Texas State Library and Archives Commission.

### **6.0 Legal Definition**

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

### **7.0 Recommendation to City Council**

The Purchasing Division and the user department make final recommendations to City Council for awarding of contracts, in accordance with approved thresholds, for all solicitations in the stated areas of responsibility.

## **8.0 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 the applicable state and local laws and the Purchasing Policy, as approved by City Council.