



GREGG COUNTY, TEXAS

PURCHASING POLICIES AND PROCEDURES MANUAL

Adopted: April 20, 2016

Gregg County Purchasing Board

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Gregg County Commissioners Court

TABLE OF CONTENTS

| | |
|---|-------------|
| Introduction | Page 3 |
| Definition of Terms | Pages 4-8 |
| Purchasing Authority and Laws | Pages 9-10 |
| Purchasing Policy | Pages 11-12 |
| Code of Ethics | Pages 13-14 |
| Requisitioning Process | Pages 15-16 |
| Specifications | Page 17 |
| Procedures for purchases under \$50,000 | Page 18 |
| Open Purchase Orders | Page 19 |
| Competitive Bidding Procedures | Pages 20-23 |
| Purchasing Professional Services | Page 24 |
| Exemptions and Emergency Purchases | Pages 25-26 |
| Sole Source Goods and Services | Page 26 |
| Cooperative Purchasing | Page 26 |
| State Purchasing Programs | Page 27 |
| Historic Underutilized Business Policy (HUB) | Page 28 |
| Minority and Women Owned Business Policy (MWBE) | Page 29 |
| Vendor Registration and Vendor Relations | Page 30 |
| Contracts and Contract Administration | Page 31 |
| Inventory and Disposition of County Property | Pages 32-33 |
| Debarment and Suspension | Pages 34-35 |
| Procurement Card Policy and Procedures | Pages 36-42 |
| Attachment A - Purchasing Department Forms | |
| Purchase Order | |
| Inventory Form | |
| Confidentiality Agreement | |
| Application for Procurement Card | |
| Procurement Cardholder Agreement | |

INTRODUCTION

This manual has been adopted by the Gregg County Purchasing Board and Gregg County Commissioners Court for the use of Gregg County employees and officials, and is designed to assist them in complying with the laws governing County purchasing procedures. Any changes in the contents of this manual shall be made only by these governing bodies.

County purchasing procedures are governed by Chapter 262 of the Texas Local Government Code; and 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 contains language taken directly from statutes. If any policy or procedure in this manual is contradictory to Texas State Law then Texas State Law shall govern.

The mission of the Gregg County Purchasing Department is to procure goods and services in the most efficient and cost effective manner possible. This is accomplished by standardization, competitive bidding on the basis of adequate specifications, and cooperative purchasing; all in compliance with the Texas Local Government Code (LGC), other relevant laws and best business practices.

The Gregg County Purchasing Department is a member of the administrative services team of Gregg County. The County Purchasing Agent is charged with the responsibility of assuring fair and equitable treatment to all vendors without regard to political pressure or discrimination on the basis of race, color, religion, national origin, handicap, or sex.

It is the duty of this department to furnish supplies, equipment, and services to the various departments and elected officials in the required quality and quantity, at the best possible price.

These tasks are accomplished by standardization and competitive bidding on the basis of adequate specifications, whenever practicable.

The Purchasing Department is committed to promoting effective, professional, and consistent procurement in Gregg County, as well as supporting the public precept that tax dollars be wisely spent.

DEFINITIONS

Advertisement or Advertise – A public legal notice put in a newspaper of general circulation containing information about an Invitation for Bid or a Request for Proposal.

Amendment – A document used to change the terms and/or conditions of a Solicitation.

Annual Term Contract – A recurring contract for goods or services, usually in effect for a 12-month period.

Auditor – Gregg County Auditor and the designated representatives.

BAFO – Best and Final Offer

Bidder - A vendor that submits a bid including anyone who is acting on behalf of the vendor that submits a bid, such as agents, employees, and representatives.

Bidders List – A computerized database of vendors who have signified in writing an interest in submitting bids for particular categories of goods and services.

Bid Bond – A guarantee that promises the bid will not be withdrawn prior to contract award. Normally it is five percent (5%) of the highest amount bid and is in the form of a financial guarantee provided by a surety; however, it can be cashier's or certified checks, or U.S. currency. Bonds of unsuccessful bids are returned after award. Bond of successful bidder is retained until the contract is executed and any necessary payment/performance bonds are submitted and accepted. If the successful bidder refuses to execute the contract or submit proper payment and performance bonds, then the bid bond is "called" for the difference between their bid and that of the next low responsive responsible bidder, up to the penal amount of 5% of the bond.

Change Order – A document used in construction contracts that changes the contract by increasing or decreasing the cost or time for performance, or changes the goods/services to be delivered.

Commissioners Court – Gregg County Commissioners Court.

Commodity Code- The accounting classification of goods and services with a unique number assigned to each description. Used as a tracking mechanism for like goods and services.

Competitive Bidding – Letting available vendors compete with each other to provide goods/services.

Competitive Proposal Process – Letting available vendors compete with each other to provide goods/services in compliance with Texas Local Government Code Chapter 262. This process permits flexibility in product and negotiation in compliance with LGC Section 262.030 when price is not the only factor.

Component Purchases – Purchasing a series of component parts of goods that normally would have been purchased as a whole.

DEFINITIONS

Contract – A formal, written agreement executed by the County and a vendor, containing the terms and conditions under which goods/services are to be furnished to the County. A contract, when properly signed by the authorized County representatives, is a commitment for County funds when properly procured.

County – Gregg County, Texas.

District Attorney – Gregg County District Attorney or the designated representatives.

County Clerk – Gregg County Clerk or the designated representatives.

Customers – The County departments.

Department – All County and precinct offices and subdivisions of them, as well as district offices including specialized local entity as defined in LGC 140.003. (Criminal District Attorney, Juvenile Board, Juvenile Department and Community Service and Corrections Department.

Designee – Individual Purchasing Department employee given the authority, as an additional agent, to the Purchasing Agent to perform County business.

Disadvantaged Business Enterprise (DBE) – A business in which at least 51% ownership is represented by one or more persons who have been historically underutilized (socially disadvantaged) because of their identification as being African American, Hispanic American, Asian-Pacific American, Native American, or Women.

Emergency Purchase – A purchase that is needed because of an emergency condition as described in Texas Local Government Code Section 262.024(a)(1).

Employee – Any County or precinct elected official, appointed official, or employee or any district elected official, appointed official, or employee.

Formal Competitive Bidding – The bidding process, in compliance with Texas Local Government Code Section 262.023, which requires approval by the Commissioners Court.

Goods – Includes any personal property to be purchased by the County, including equipment, supplies, material, and component or repair parts.

Invitation for Bid or IFB – Specifications and formal bidding documents requesting pricing for a specified good/service that has been advertised for bid in a newspaper.

Lease – A contract for the use of property for a period of time for a specified compensation.

Lowest Responsible Bid – The offer from the responsible bidder who submits the lowest and best bid, meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It is expressly understood that the lowest responsible bid includes any related costs to the

DEFINITIONS

County in a total cost concept. The term “responsible” refers to the financial and practical ability of the bidder to perform the contract, and takes into consideration the past performance of the vendor.

Material Group – A means of classifying goods/services with a unique group number assigned to each description.

Modification – A document used to change the terms/conditions of a contract.

Negotiations - A consensual bargaining process in which the County and vendors attempt to reach agreement on differences in desired contract provisions or a potentially disputed matter for the purpose of reaching a mutually-acceptable agreement.

Official – Any elected or appointed official and any person authorized to act on their behalf.

Payment Bond – A guarantee that promises payment to subcontractors and suppliers on a contract during performance. It must be submitted prior to any work. It is normally one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier’s or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to pay subcontractors and suppliers, then the payment bond is “called” for the amount of non-payment.

Performance Bond – A guarantee that promises that the contract will be performed as required. It must be submitted prior to any work. Normally it is one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier’s or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to perform and complete the contract as required, then the performance bond is “called” for the amount required to complete the contract. A surety that provides a bond may be permitted to “take over” a failed or defaulted contract.

Pre-Bid/Proposal Conference – A conference conducted by the Purchasing Department for the benefit of those wishing to submit a bid or proposal for services/supplies required by the County. This is held in order to allow bidders/proposers to ask questions about the proposed contract and particularly the contract specifications.

Professional Service - Services directly related to profession practices as defined by the Professional Services Procurement Act, including those services within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, and professional engineering.

Professional Services Procurement Act – As defined in Government Code 2254, there are three (3) kinds of professional Services specified and allowable in this act.

Prompt Payment Act – Texas Government Code 2251.021(B) TIME FOR PAYMENT BY GOVERNMENTAL ENTITY, states a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of: (1) the date the governmental entity receives the goods under the contract; (2) the date the performance of

DEFINITIONS

the services under the contract is completed; or (3) the date the governmental entity receives an invoice for the goods or services.

Proprietary Information – Information in bids or proposals to which the vendor claims ownership or exclusive rights and which is protected from disclosure under the Texas Public Information Act (Texas Local Government Code, Chapter 551).

Purchase Order – An order by the Purchasing Department for the purchase of goods/services written on the Gregg County standard Purchase Order form and, when accepted by the vendor without qualifications within the specified time limit, becomes a contract. It is the vendor's authority to deliver and invoice for goods/services specified, and the County's commitment to accept the goods/services for an agreed upon price.

Purchase Requisition – A request by a department to the Purchasing Department that authorizes Purchasing to enter into a contract with a vendor to purchase goods/services and charge the expenditure to the appropriate department budget. This automated form is for internal use and cannot be used by a department to order material directly from a vendor.

Purchasing – The act, function, and responsibility for the acquisition of goods/services, including construction and professional services.

Purchasing Act – Chapter 262, Subchapter C of the Texas Local Government Code that governs the conduct of purchasing activity for counties.

Purchasing Agent – A person appointed by the Gregg County Purchasing Board to make procurements and contracts on behalf of the county and any other purpose authorized by law.

The purchasing agent for the County who reports to the Purchasing Board and the designated representatives.

Purchasing Board – A board comprised of three (3) district judges and the County Judge who are responsible for appointing the Purchasing Agent and approving the department's budget.

Purchasing Department – Gregg County Purchasing Department and its staff.

Request for Services or RFS – A document that requests information about qualifications and details of service to be provided, and costs for services that the Commissioners Court orders exempt in compliance with Texas Local Government Code, Section 262.024(a)(4).

Request for Offer or RFO – A process for soliciting offers from three (3) catalog vendors authorized by the General Services Commission pursuant to Texas Government Code, Chapter 2157, and negotiating with them for the best value and purchase in the best interests of Gregg County.

Request for Proposal or RFP – A document requesting an offer be made by a vendor, which allows for negotiation after a proposal has been received, but before award of the contract for

DEFINITIONS

goods/services procured in compliance with Texas Local Government Code, Section 262.0295 or 262.030.

Request for Qualifications or RFQ – A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act.

Sealed Bids – Competitive bids required to be advertised in a newspaper and submitted to the Purchasing Department in a sealed envelope that conceals price.

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

Sequential Purchases – Purchases made over a period of time that, in normal purchasing practices, would be made as one purchase.

Services – Includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal, or professional services.

Sole Source Good or Service – A good or service that can be obtained from only one source and is purchased in compliance with Texas Local Government Code, Section 262.024(a)(7).

Solicitation – A document—such as an invitation to bid, request for proposal, request for offers, or request for qualifications—issued by the Purchasing Department. This document contains terms and conditions for a contract, and it seeks (solicits) a bid or proposal for goods/services needed by the County.

Specifications – A concise description of a good or service that an entity seeks to buy, and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, preparing an item for delivery, and preparation or installation for it to be used. The specification is the total description of the item to be purchased.

Vendor – One who sells something; a “seller.” A business entity or individual that seeks to have or has a contract to provide goods or services to the county.

PURCHASING AUTHORITY

PURCHASING LAWS

The Gregg County Purchasing Board has directed the Purchasing Agent to provide a centralized purchasing structure. It is the policy of Gregg County, acting through its duly appointed Purchasing Agent, to comply fully with all purchasing laws and amendments passed by the Texas State Legislature.

AUTHORITY

Gregg County adopts these policies and procedures under the authority of Texas Local Government Code, Chapter 262. The Gregg County Purchasing Agent operates under the authority of 262.011 of the Texas Local Government Code.

COUNTY PURCHASING ACT

The Purchasing Act applies to all departments: all district, county, precinct officials, employees and subdivisions of all district, county and precinct offices. The County Purchasing Act provides a general legal and procedural framework that emphasizes price (rather than total cost and value), openness, control, and accountability rather than efficiency. It is the duty of the county's chief procurement official to review and to recommend periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.

In Texas counties there are usually only two entities that have the authority to sign procurement documents: the Commissioners court as a voting body only, and the county purchasing agent. The Gregg County Commissioners Court must approve all contracts exceeding the statutory limit and the purchasing agent must approve all contracts under the statutory limit. *Other officials typically do not have procurement authority unless specifically authorized by commissioners court under authority of the Purchasing Act or other government code.*

The Purchasing Act specifically states (Section 262.011(d)): "The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repair."

VIOLATION AND PENALTY

Any person who knowingly violates or authorizes the violation of the Purchasing Act, and any County or precinct employees failing to use the Purchasing Agent for purchases including an agent or employee of the County or of a department of the County commits a crime punishable by Chapter 262, Texas Local Government Code

PROFESSIONAL SERVICES PROCUREMENT ACT

Professional services are defined in the Professional Services Procurement Act as:

1. those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, or real estate appraiser or professional nursing as defined by the laws of the State of Texas;
2. those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, professional engineer, or state licensed real estate appraiser in connection with his professional employment or practice or a registered nurse.

The Act states that contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

To ensure vendors a fair and equal opportunity to do business with county, and to ensure that the services of the most qualified professional is obtained, commissioners court should direct that professional services be procured using a Request for Qualifications (RFQ) process.

The county shall rank firms based on their qualifications and then enter into negotiations with the most qualified firm based on a fair and reasonable price. If the county is unable to negotiate a satisfactory contract with the most highly qualified vendor, negotiations will formally end with that person or firm. The next most highly qualified vendor will then be asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

If any contract is entered into with one of the above mentioned professionals on the basis of a competitive bid, it is contrary to state law and is void.

Additional PURCHASING LAWS that govern county purchasing include but are not limited to the following:

- Public Property Finance Act, (TEX. LOC. GOV'T CODE ANN., ch. 271, subch. B)
- Services and Products of Severely Disabled, (TEX. HUM. RES. CODE ANN., sec. 122.014)
- Interlocal Cooperation Agreement, (TEX. GOV'T CODE ANN., ch. 791)
- Prompt Payment Act, (TEX. GOV'T CODE ANN., ch. 2251)
- Bidders from other States and 5% Retainage, (TEX. GOV'T CODE ANN., ch. 2252)
- Public Works Performance and Payment Bonds, (TEX. GOV'T CODE ANN., ch. 2253)
- Wage Rate for Construction Projects, (TEX. REV. CIV. STAT. ANN., Art. 5159a)
- Sales tax exemption for incorporated purchases (TEX. TAX CODE ANN. § 151.131)
- Worker's Compensation Compliance (Workers Compensation Rule 110.110)
- Professional Services Procurement Act (TEX. GOV'T CODE ANN., ch. 2254)

Counties must also comply with a host of other procurement and financial requirements, including federal procurement requirements which flow through to states and localities receiving federal funds (grants).

PURCHASING POLICY

These policies and procedures are adopted by the Gregg County Purchasing Agent and the Gregg County Purchasing Board and approved by the Commissioners Court acting in its capacity as the governing body of Gregg County, Texas. Gregg County adopts these policies and procedures under the authority of Texas Local Government Code, Chapter 262. The Gregg County Purchasing Board has directed the Purchasing Agent to provide a centralized purchasing structure.

The County Purchasing Policy is to:

- Seek the best quality, lowest priced goods and services available that meet the needs and delivery requirements of Gregg County Personnel;
- Provide all responsible vendors and contractors with equitable access to servicing the needs of Gregg County and its personnel through the competitive bidding of goods and services;
- Comply with all federal and state laws that apply to county purchasing and with the policies and procedures in this manual;
- Manage all county assets and inventory so that replacement costs are minimized and Gregg County can account for those assets; and
- Dispose of all surplus, salvage, seized, and abandoned property in a manner that provides the most benefit to the taxpayers of the county and complies with the law.
- County purchasing will be conducted in a manner that will promote and foster public confidence in the integrity of the county procurement process.
- Protect the interest of Gregg County taxpayers without regard to any undue influence or political pressure.

The Purchasing Agent must purchase or lease all goods and services, including maintenance and repair, for all departments.

In addition, the responsibilities of the Purchasing Agent shall be to:

1. Encourage and support compliance with Texas Purchasing Laws;
2. Work in conjunction with the auditor and other county officials in the development of efficient financial processes;
3. Promote local business participation in Gregg County procurement processes; and
4. Provide the business community a central professional link to county business.

Any commitment to acquire goods or services without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order may be held personally responsible for the payment. All such purchases may be considered a *donation* to Gregg County. Employees must never purchase goods or services for their own personal benefit.

Departments must be cognizant of budget balances and refrain from trying to process requisitions in excess of their balances unless the proper transfer of funds has been accomplished. Purchase requisitions for which there is not adequate funding will not be processed.

Departments should plan purchases in order to keep emergency purchase requisitions to a minimum.

Departments must ensure that all employees involved in making departmental purchase requests have read and understand the procedures in this manual.

Each county department is responsible for receiving goods and services. Departments should make Purchasing aware of any shortage, late delivery, damaged merchandise, or any other problem relating to the vendor's performance.

Departments must provide the Purchasing Department ample time to process any purchase requests:

1. On all purchases that are less than \$50,000, departments should allow a one to two week time frame.
2. On all purchases that are over \$50,000, departments should allow a six to eight (8-12) week time frame.

The Purchasing Department is committed to processing all purchase requisitions within a reasonable time frame.

CODE OF ETHICS

Policy

It is the policy of Gregg County that the following ethical principles will govern the conduct of every employee involved directly or indirectly in the Gregg County procurement process.

Responsibility to County

Employees shall avoid any activities that would compromise or give the perception of compromising the best interest of Gregg County. Employees will not use confidential proprietary information for actual or anticipated personal gain.

Conflict of Interest

Employees will avoid any activity that would create a conflict between personal interests and the interest of Gregg County. Conflicts exist in any relationship where an employee is not acting in the county's best interest and may be acting in their own best interests or the interests of someone associated with them.

Such conflicts of interest would include being involved in any procurement activity in which:

- The employee or any member of the employee's family has any financial interest pertaining to the Gregg County procurement process;
- A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the Gregg County procurement process; or
- Any other person, business, or organization with whom the employee or member of the employee's family is negotiating or has any arrangement concerning prospective employment.

If any such conflicts of interest exist, the employee will immediately notify the Purchasing Agent in writing and will remove himself/herself from the Gregg County procurement process.

Perception

Employees shall avoid any appearance of unethical or compromising practices in all relationships, actions, and communications associated with County purchases.

Gratuities

Employees shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual should disclose the transaction to the Purchasing Agent or District Attorney for interpretation.

Subcontractor(s)

It shall be a breach for any payment, gratuity or offer of employment to be made on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Gregg County, or any person associated therewith, as an inducement for the award of a subcontract to order.

Confidential Information

It shall be a breach of ethics for any employee or former employee of Gregg County knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any person.

Conflict of Interest Disclosure

State Law (Chapter 176 Local Government Code) requires the filing of Conflict of Interest Questionnaires by certain individuals and businesses.

The Questionnaires require disclosures describing certain business and gift giving relationships, if any; the filers may have with the commissioners court members, the purchasing agent and other elected/appointed officials.

The Law applies to:

- Businesses and individuals who contract with the county
- Businesses and individuals who seek to contract with the County, (regardless of whether a bidder is awarded the contract), and
- Agents who represent such businesses in their dealings with the County

Compliance is the responsibility of the individual, business and agent who is subject to the law's filing requirements

All Conflict of Interest Questionnaires must be filed with the Gregg County Clerk.

REQUISITIONING PROCESS

Statutes require counties to utilize a requisition system. Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized.

The department's purchase requisition authorizes the Purchasing Department to enter into a purchase order contract with a vendor to purchase goods or services. This automated form is for internal use and cannot be used by a department to order materials directly from a vendor.

Purchase requisitions should fully describe to the Purchasing Department what to buy, when it is required, and where the goods are to be delivered, or the services to be performed. They should also include what account to use and the amount of money authorized to spend.

Purchase Authorization

Each department must furnish the Purchasing Agent with a list, if other than the elected or appointed official, of employees authorized to sign a requisition for purchase. It is the department's responsibility to ensure that all authorized personnel have read and understand the policies and procedures of this manual.

Policy

Gregg County utilizes an automated requisitioning system. Based on established budget line items, purchase requisitions are entered into the computer by the user department. Adequate budget funds must be available in the departmental line items or in operating expenses (County uses pooled budgeting) before the Purchasing Department can proceed with the purchase of the requested goods and services.

After the Purchasing Department receives a purchase requisition, it determines the appropriate procedures to be followed based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services, and other relevant factors.

Upon determining the appropriate procurement process, the Purchasing Agent or assigned representative (buyer) acting on his/her behalf will issue a purchase order to the vendor(s) for the desired goods or services. The Purchasing Agent or assigned representative is the only individual authorized to generate a printed/electronic copy of a purchase order. No other County personnel will have access or authorization to print a purchase order.

Any capital assets not approved in budget must go to Commissioners Court for approval.

Types of Requisitions

Routine – Normal purchases have a cycle time of three to ten (3-10) working days.

Expedited – Purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases do not qualify as emergency purchases and are subject to all applicable bidding requirements. Cycle time for expedited purchase requisitions is one to three (1-3) working days.

Note: Expedited purchases are NOT emergency purchases. They are goods or services needed quickly to prevent costly delays or work stoppage. These purchase requests should not be used unless absolutely necessary. The user department should always telephone the appropriate buyer to make them aware of any such problem.

Emergency – Purchase of any goods or services needed because of an emergency condition that the commissioners court has ordered exempt, in compliance with the County Purchasing Act [Texas Local Government Code, Section 262.024(a)(1)]. All emergency exemption orders must be processed through the Purchasing Office.

- 1) Emergency items less than \$50,000 will be handled in the same manner as an expedited purchase requisition.
- 2) Emergency items greater than \$50,000 must be placed on the Commissioners Court agenda.

When an emergency situation exists, the Purchasing Agent must be contacted to ensure compliance with the Purchasing Act. In a declaration of a local state of disaster, the County Judge would be the authority to approve purchases.

The only exceptions to automated purchase orders are the requests for payment processed directly by the Auditor's Office for the following goods or services:

- Utilities,
- Employee reimbursement requests
- LEOSE expenditures
- Collections office refunds
- Rental deposit returns
- Commitments
- Sub-court reporters and transcripts
- JP Holdings
- Attorney's vouchers,
- Foster programs,
- Specified court related expenditures,
- Risk Management claims
- Purchases not required by statute to be processed by the Purchasing Agent

SPECIFICATIONS

A specification is a concise description of goods or services that an entity seeks to buy, and the requirements the vendor must meet, in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any goods or services for delivery, or preparing or installing them for use.

Purpose

The purpose of any specification is to provide Purchasing with clear guidelines from which to purchase, and to provide vendors with firm criteria of a minimum standard acceptable for goods or services. A good specification should:

1. establish the minimum acceptability of the goods or services;
2. promote competitive bidding;
3. contain provisions for reasonable tests and inspections for acceptability of the goods or services; and
4. provide for an equitable award to the lowest and best bid from a responsible bidder.

Preparation of Specifications:

Specifications should be proposed by the user department or an outside agency. The final acceptance of specifications shall rest with the Purchasing Agent and Commissioners Court to ensure proper quality control and avoid conflicting specifications in the different departments. To avoid duplication of efforts and expedite the bid process, departments should submit their specifications electronically.

Below is a list of specification types that will be used by the Purchasing Department.

1. **Design** - A detailed description of goods or services, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients, and all other details needed for the provider to produce goods and services of minimum acceptability. Design specifications are usually required for construction projects, certain produced goods, and for many services.
2. **Performance** – A detailed description where the goods or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability, and recommended practices. This type of specification is used most often for capital equipment.
3. **Brand Name or Equal** – A detailed description that lists goods or services by brand name, model, and other identifying specifics. Products equal to the characteristics of the named brand are specified as acceptable. Usually the composition of a brand name good and service is provided through labeling, but broader tolerances and less consistency from item to item may be expected as compared with standard goods. Other manufacturers may provide a nearly identical good under their own brand name.
4. **Industry Standard** - All goods made to an industry standard are identical, regardless of manufacturer, and will result in acquisition of goods of uniform quality. An example is the UIL standard for electrical products.

PROCEDURES FOR PURCHASES UNDER \$50,000

For purchases of goods and services totaling less than \$50,000, as defined in §262.011(d) of the Texas Local Government Code, the Purchasing Agent is authorized to select the exact goods or services to meet the requirements of the departments. The Purchasing Agent is authorized to select the vendor and follow all necessary actions to conclude a purchase order for the purchase of the goods and services, without specific approval of the commissioners court.

The general practice of the county shall be to accept the lowest responsible bid or price quotation as specified and on *equal* product standards.

These regulations and procedures apply to all purchases less than \$50,000.00.

- A. From \$1.00 to \$1,000.00 – If the county is purchasing personal property costing at least \$1.00 but less than \$1000.00 over twelve (12) month period within current tax year the county must solicit previously approved vendors and purchase from that vendor.
- B. From \$1,001.00 to \$10,000.00 – If the county is purchasing personal property costing at least \$1001.00 but less than \$10,000.00 over a twelve (12) month period within current tax year, the county must solicit vendors by phone, to supply the particular item(s). In the procurement of these item(s), the county must document price quoted from at least three (3) previously established vendors.
- C. From \$10,001.00 to \$49,999.00 – If the county is purchasing personal property costing at least \$10,001.00 but less than \$49,999.00 over a twelve (12) month period within the current tax year, the county must solicit vendors through written quotations, to supply the particular item(s). In the procurement of these item(s), the county must obtain written price quotations from at least three (3) previously established vendors.

If quality and delivery terms meet county needs, the vendor who provides the lowest price will be selected. If the vendor offering the lowest price is not used, a notation will be made to indicate the reason another vendor was selected.

The Purchasing Agent has the authority to deviate from the policy for purchases under \$50,000 when it is in the best interest of Gregg County and if it will facilitate specific County operations.

NOTE: If cumulative purchases for a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required. Cumulative purchases include County wide purchases and are not limited to departmental requirements.

OPEN PURCHASE ORDERS

Open or blanket purchase orders are used for *contracted* recurring bid items such as asphalt or small on the spot purchases.

This policy applies to open purchase orders that do not exceed \$50,000.00 over a twelve- (12) month period (twelve month period within current tax year); unless the request is for items on bid contract.

Procedure to process open purchase orders:

- A. The requesting department should submit a requisition into the computer system for requested \$ amount.
- B. A purchase order will be issued if requisition is approved to the respective vendor.
- C. It is the responsibility of requesting department to manage the amount available on the open purchase order. If the dollar amount listed is not enough, then the purchase order must be closed and the department should start this procedure over to request a new open purchase order. Departments should not spend more than the amount available on the purchase order at any time. Change orders will not be issued to increase open purchase orders.

The Purchasing Agent has the right to reject any open purchase order requests to ensure compliance with procurement laws. Departments that do not manage open purchase orders may be disqualified from utilizing this process.

COMPETITIVE BIDDING PROCEDURES

There are two primary types of solicited purchases - competitive bidding and competitive proposals. Competitive solicitation means letting available vendors compete with each other to provide goods or services. The requirements for these procedures are outlined in Section 262 of the Texas Local Government Code and Chapter 2269 of the Government Code and applies only to contracts for which payment will be made from current funds.

1. **Competitive sealed bidding** is a transparent procurement method in which bids from competing contractors, suppliers, or vendors are invited by openly advertising the scope, specifications, and terms and conditions of the proposed contract as well as the criteria by which the bids will be evaluated. Competitive bidding aims at obtaining goods and services at the lowest prices by stimulating competition, and by preventing favoritism. Competitive bids are not negotiated. With few exceptions, price is the sole determinant factor if the vendor's product or services meet the requirements of the specification.

The *IFB or Invitation for Bid* method is the most preferred method of procuring goods and supplies. It is used when the requirement can be definitively described, is readily available, and is an off-the-shelf kind of requirement.

2. **Competitive proposals:** The Texas Legislature added the ability for counties to utilize best value analysis for any type of procurement where price is not necessarily the most important factor and is determined to be in the best interest of the county. The Request for Proposal (RFP) method is used where the evaluation is made by established weighted evaluation factors. Request for Proposal procedures can be found in Texas Local Government Code Section 262.030. Any formal contract resulting from the RFP process must be reviewed by the District Attorney's Office and approved by the Commissioners Court.

While the competitive proposal (RFP) process is similar to the competitive bidding (IFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated procurement. Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors that must be specified in the RFP and considered in recommending award.

Procedures

Formal competitive bidding calls for formal approval by the commissioners court due to a required expenditure in excess of \$50,000.

Notice to Purchasing Agent: A simple memo from the user department to the Purchasing Agent will serve as the initial notice of need to procure goods or services. Descriptions and/or specifications of the needs should be attached to the memo for clarity.

Bid Notice: After development of specifications and approval by commissioners court a notice of the proposed purchase will be published by the Purchasing Department as required in Section 262.025 of the Texas Local Government Code.

Pre-Bid Conference - Texas Local Government Code, section 262.0256 allows the commissioners court to require potential vendors to attend a mandatory pre-bid (pre-proposal) conference to discuss contract requirements and answer vendor questions. The Purchasing Agent works with the user department to determine if a pre-bid (pre-proposal) conference is necessary and whether

attendance is mandatory or optional. The Purchasing Office manages any pre-bid (pre-proposal) conference and requests that the user department makes staff available to answer questions at the conference.

Receiving Competitive Sealed Bids: The below procedures will be followed when receiving competitive sealed bids in order to preclude any perception of favoritism or revealing bid prices or information.

1. Bids will be received by the Purchasing Agent and or designee in the Gregg County Purchasing Department.
2. Bids will be stamped with the time and date received. The “Date Stamp Clock” in the Purchasing Department will serve as the official time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
3. Bids received after the opening time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
4. After bids are received, a secure place will be provided by the Purchasing Department for holding the bids until the opening date. The bids are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
5. On occasion, bids that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, another Purchasing Department staff member will be called immediately to act as a witness that the details of the bid, particularly the price, were not reviewed and that the bid was again sealed by an employee of the Purchasing Department.
6. Bids may be submitted electronically online through the Gregg County Website on the Purchasing Department Page by utilizing the applicable software and instructions. Bids submitted electronically must be submitted by the bid deadline – late submissions will not be accepted. The Purchasing Agent or designee will open the electronic bid portal at bid opening.

Public Bid Opening:

IFB: The Purchasing Agent publicly opens, reads aloud, and documents the bids at the date, time, and place specified in the notice. Preliminary tabulations are provided to the public upon request.

RFP: The Purchasing Agent publicly opens and documents sealed proposals at the date, time, and place specified in the notice. Only the names of vendors submitting proposals are announced. Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information contained in them. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Bid Amendments: The commissioners court, by law, authorizes the Purchasing Agent to extend the bid opening date on the notice of an Invitation for Bids or Request for Proposals if an error is discovered or if the nature of the goods and services requires an extension. The Purchasing Agent may amend an IFB or RFP to clarify the original intent or to correct clerical errors if inquiries about the meaning of the IFB/RFP indicate the need for an amendment; if the changes are so insignificant that they are not likely to matter to the vendor in determining the price or the ability to respond; if there is no change to the quantity or delivery requirements; and if the amendment does not change the scope of the IFB/RFP. There should be at least three (3) days between the date of the amendment and the opening date specified in the legal advertisement.

Evaluations:

IFB: The Purchasing Office evaluates all bids with assistance from the user department and recommends the lowest responsible bid to the Commissioners Court for award. The Purchasing Office evaluates bids based on:

- ✓ The relative price, including the cost of repair and maintenance when heavy equipment is the subject of the bid or the cost of delivery and hauling when road construction is involved;
- ✓ The compliance of goods and services with specifications; and
- ✓ The vendor's past performance, the responsibility of the vendor, including the vendor's financial and practical ability to perform the contract
- ✓ Gregg County will consider the vendor's safety record if the IFB states it is to be considered. This includes compliance with requirements for the safety of the environment.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bid must be documented. Commissioners court either approves the recommendation or rejects all bids and authorizes the Purchasing Agent to re-bid the goods or services.

RFP: The Purchasing Office supervises the evaluation process performed by the user department or committee to ensure that the evaluation is conducted fairly and consistently and that the integrity of the process is maintained. The RFP must specify the relative importance of price and other evaluation factors including the relative weight of each factor. Evaluators only use these specified factors in evaluating the proposals. Purchasing staff leads the evaluation team. For high visibility or high dollar value procurements the purchasing agent may take committee recommendations to Commissioners Court to request approval to negotiate with top ranked firms.

Confidentiality Memorandum The Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to evaluation committee members for signature. The memorandum contains requirements to keep information confidential until the commissioners court approves an award. The evaluation committee members are expected to adhere to this memorandum during the competitive process. Proposal responses should not be reproduced and must be returned to the Purchasing Department at the completion of the evaluation phase.

RFP: The Purchasing Office supervises the evaluation/negotiation process or committee to ensure that the evaluation is conducted fairly and that the integrity of the process is maintained.

1. Evaluators from Department sign a confidentiality memorandum and send to Purchasing Office
2. Evaluates response based on established evaluation criteria and formats
3. Completes evaluation and submits recommendation to Purchasing Office
4. Works with Purchasing Office to develop negotiation strategy (as applicable)
5. Participates as member of negotiating team to negotiate

Contracts: All formal contracts resulting from the IFB/RFP process must be reviewed by the District Attorney's Office and approved by the commissioners court.

PURCHASING PROFESSIONAL SERVICES

The two (2) principal laws with which the Purchasing Agent must comply when procuring professional services are the Professional Services Procurement Act and the County Purchasing Act.

There are two (2) kinds of professional services:

1. Those professional services specifically defined under the Professional Services Procurement Act; and
2. Those “other” professional services that are not specifically defined under either the Professional Services Procurement Act or the County Purchasing Act and which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent must rely on court cases and Attorney General Opinions to determine what services are included in these “other” professional services.

Request for Qualifications (RFQ) - To ensure vendors a fair and equal opportunity to do business with Gregg County, and to ensure that the services of the most qualified professional are obtained; professional services should be purchased by using the Request for Qualifications (RFQ) process, unless otherwise exempted by commissioners court. Any exemption situations will be submitted to the commissioners court by the Purchasing Agent for approval. Contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

Procedures for the Request for Qualifications process will be followed as outlined in Chapter 2254 of the Texas Government Code.

Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information.

Confidentiality Memorandum - The Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to evaluation committee members for signature. The memorandum contains requirements to keep information confidential until the commissioners court approves an award. The evaluation committee members are expected to adhere to this memorandum during the competitive process.

Evaluation and Negotiation - The Purchasing Office supervises the evaluation/negotiation process or committee to ensure that the evaluation is conducted fairly and that the integrity of the process is maintained.

If, as a result of an RFQ, Gregg County enters into contracts with more than one (1) qualified professional so that there are several professionals under contract to provide services as needed, thereby creating a pool of professionals, then the user department must ensure that an RFQ is distributed at least once every four (4) years to allow newly qualified professionals may be added to the pool.

EXEMPTIONS AND EMERGENCY PURCHASES

Goods and services can be exempt from competitive procurement process if the commissioners court orders the purchase exempt. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants. The following is a list of these circumstances:

- (1) 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;
 - (2) an item necessary to preserve or protect the public health or safety of the residents of the county;
 - (3) an item necessary because of unforeseen damage to public property;
 - (4) a personal or professional service;
 - (5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;
 - (6) any land or right-of-way;
 - (7) an item that can be obtained from only one source, including:
 - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
 - (B) films, manuscripts, or books;
 - (C) electric power, gas, water, and other utility services; and
 - (D) captive replacement parts or components for equipment;
 - (8) an item of food;
 - (9) personal property sold:
 - (A) at an auction by a state licensed auctioneer;
 - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
 - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;
 - (10) any work performed under a contract for community and economic development made by a county under Section [381.004](#); or
 - (11) vehicle and equipment repairs.
- (b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section [262.023](#) if the commissioners court by order grants the exemption and if:
- (1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) 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 items by telephone or written quotation at intervals specified by the commissioners court. Counties 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 officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

Poor planning does not constitute an emergency purchase. Work stoppage also does not necessarily constitute an emergency purchase; these situations will be reviewed case by case and handled appropriately.

SOLE SOURCE GOODS AND SERVICES

Sole source goods and services require a statement from the Purchasing Agent as to the existence of only one source, and specifically noting which type of listed sole source good or service is being purchased. The statement will be submitted for consideration and approval by the commissioners court and must be reflected on the agenda of the meeting of the commissioners court. Sole source purchasing and procedures are outlined in Section 262.024 of the Texas Local Government Code.

COOPERATIVE PURCHASING

A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization (§271.102).

A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will

1. Designate a person to act in all matters relating to the program;
2. Make payments provided in the agreement;
3. Be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery.

A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for purchase of goods or services.

STATE PURCHASING PROGRAMS

There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously competed by the State of Texas or other governments.

1. **State Term Contracts** (authorized by sections 271.081 through 271.083 of the Texas Local Government Code). The County may purchase from vendors on the same terms and conditions as the State. The State has entered into term contracts after using competitive bidding procedures. The TPASS manages this program for the State.
2. **Texas Multiple Award Schedule (TXMAS)** (authorized by section 2155.502 of the Texas Government Code). The County may purchase goods and services from a schedule of multiple award contracts developed by the TPASS. The schedule is adapted from General Services Administration (GSA) Federal Supply Service contracts. TXMAS contracts take advantage of the most favored customer (MFC) pricing and under certain circumstances; the County may negotiate a lower price for the goods or services offered on a scheduled contract.
3. **Department of Information Resources (DIR)** – (authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code). The County may purchase computer-related equipment through the DIR and its contracted vendors. The Purchasing Agent acts for Gregg County in all matters related to purchase of goods and services from a vendor under any contract based on any State Purchasing program. Gregg County is responsible for making payments directly to these vendors.

County departments must submit a requisition and retrieve a purchase order by the Purchasing Agent before any goods are delivered or services are rendered by the above State Purchasing Programs.

Historically Underutilized Business Policy (HUB)

Tex. Gov. Code Chapter 2161

Historically Underutilized businesses (HUBs) – also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his or her identification as a member of certain groups, including women, Black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans and American Indians.

Certified HUBs – includes business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies as recognized by Gregg County.

Gregg County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the county's procurement processes. It is the policy of Gregg County to involve qualified historically underutilized businesses to the greatest extent feasible in the county's procurement processes. The county, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Gregg County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all businesses regardless of size, economic, social or ethnic status.

HUB Goals – The Gregg County Commissioners Court may establish HUB goals in compliance with State and Federal Law. *It is not the intent of this policy to require the Gregg County Commissioners Court to award a contract to other than the lowest possible bidder or best value bidder as required by law.* Any HUB Goals should consider the diversity of Gregg County's population and the availability of HUB firms within the specific category of goods or services to be procured.

The Gregg County Purchasing Department shall serve as the county's HUB Office. Gregg County will encourage HUB vendors to participate in all facets of the procurement process by:

1. Seeking communication links with HUB vendors to involve them in the procurement process.
2. Providing copies of bid specifications to minority chambers/community business alliances.
3. Including a link for HUB vendors to register through the State of Texas and on the county's website.

MWBE POLICY
(Minority and Women owned Business Entrepreneurs)

Gregg County is wholly committed to developing, establishing, maintaining, and enhancing minority and women owned business involvement in the total procurement process. It is the policy of Gregg County to involve qualified minority/women-owned businesses to the greatest extent feasible in the county's procurement of goods, equipment, services and construction projects. The county, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Gregg County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Gregg County.

VENDOR REGISTRATION

It is Gregg County's Policy that all vendors interested in doing business with the county *must* first register with the Gregg County Purchasing Agent or designee prior to contacting/meeting with any elected official, department head or employee of Gregg County. Vendor Registration can be done through utilization of the county's website and/or contacting the Gregg County Purchasing Department directly.

VENDOR RELATIONS AND POLICY

It is Gregg County's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in all of our dealings. At all times, applicable laws must be scrupulously observed. In this regard, caution should be observed when dealing with suppliers and/or their representatives to:

- A. Accord prompt and courteous reception, as well as fair and equal treatment, to all suppliers and their representatives,
- B. Provide equal opportunity for all suppliers to offer price quotes and products,
- C. Guarantee the confidentiality of all price quotations made by vendors,
- D. Explain as clearly and fully as possible to suppliers the reason for any rejection of prices and/or quotes provided,
- E. Remain scrupulously free from obligations to any supplier,
- F. Keep informed about sources of supply, current methods, services, and material; encourage their testing of new product samples,
- G. If, for any reason, one vendor is permitted to re-quote, his competitors will be given the same opportunity. Re-quoting should be restricted to an absolute minimum.

The Purchasing Agent and Purchasing Department Personnel deal with vendors on a continuous basis. It is important that information be recorded about specific performance of all vendors.

The Purchasing Department welcomes any useful and constructive evaluations from departments. This information will be useful for the Purchasing Department to monitor and effectively stimulate vendor activities and performance. The Vendor Performance Evaluation form is available in the Purchasing Department.

Vendor Owing Taxes: Pursuant to Texas LGC 262.026.0267, Gregg County adopts a policy which requires that vendors taxes be current as of the date bids/proposals are due. Bidders with delinquent taxes on the due date will not be eligible for award. Whether or not a vendor's taxes are delinquent will be determined by an independent review of the Tax Office records. Additionally, if during the performance of a contract, a vendor's taxes become delinquent, Gregg County reserves the right to provide notice to the Auditor pursuant to Texas LGC 154.045.

CONTRACTS AND CONTRACT ADMINISTRATION

The user department will be responsible for monitoring and documenting contractor performance/compliance. All documentation of non-compliance must be shared with Purchasing. Documentation related to clarification of expected performance standards that are complied with after problem notification, need not be provided to the Purchasing Department. If poor performance or non-compliance with the contract is evidenced, Purchasing will be responsible to initiate corrective action with the vendor.

The Purchasing Agent will take all steps related to obtaining compliance with the contract, but will consult the District Attorney's Office before taking any steps toward suppression or termination of the contract. Before any letter, notices, or other communication related to termination or suspension are sent to the contractor, the contents of these should be reviewed by the District Attorney's Office as the initial steps toward potential litigation. The Purchasing Agent shall be responsible to review contracts to ensure procurement compliance and negotiation terms only. All other contract language and its correctness including contract preparation is not the responsibility of the Purchasing Agent

Contract Modifications

It is the policy of Gregg County that change orders, be processed through the Purchasing Department in accordance with requisition procedures. The total contract price may not be increased unless the cost of the change can be paid from current and available funds. **All contract modifications and change orders must be approved by the Gregg County Commissioners Court.**

Certificate of Interested Parties (Form 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a government entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the government entity. The disclosure of interested parties will be submitted online via Form 1295 through the Texas Ethics Commission website and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

1. When an apparent Awardee has been identified, the Buyer must contact them immediately and request Form 1295. Awardee must return completed, notarized form, to purchasing within 10 days of request.
2. Unsuccessful bidders are not required to complete Form 1295.
3. The Awardee must place the Gregg County Contract Number on Form 1295, in line #3.
4. Within 30 days of the award the Buyer must acknowledge on the TEC website, the receipt of the correctly completed Form 1295.
5. Renewals are also part of this process. Each renewal, change order, contract alteration, modification, etc. will require a new form from the Vendor.

The Purchasing Agent will not be responsible to retrieve Vendor Form 1295 for any contracts, renewals, leases that were not processed through the Purchasing Office.

INVENTORY & DISPOSITION

Per Texas Local Government Code Sec. 262.011(i), “On July 1, of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all the property on hand and belonging to the county and each subdivision, officer, and employee of the County”.

When departments sustain loss or damage to goods, equipment or buildings, any funding for the replacement or repair is coordinated with the Purchasing Department, the actual purchase or repair still is processed by the Purchasing Department and if necessary court approval. Additionally, an Inventory Form is completed and sent to the Purchasing Department for the inventory file updates, if applicable.

The Gregg County Purchasing Department is responsible for county inventory. All county purchased items and equipment that cost \$250.00 or more must be tagged with an approved county tag number for asset controls. The Purchasing Department will tag property, enter information including but not limited to cost, make, model, serial number, and VIN number.

All county property, regardless of the value, should be safeguarded by Elected Officials, Department Heads and employees. All county property disposed should take place only after consultation and approval of the Purchasing Department for assurance the appropriate statutes disposal procedures and internal controls are maintained.

§ 263.152. Disposition: The commissioners court of a county may periodically sell the county's surplus or salvage property by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the county that is selling the surplus or salvage property;

When property is determined to be surplus/salvage, is no longer needed, is in unusable or unsafe condition, it shall be disposed of as outlined below.

Items purchased by federal funds or grant funds shall be handled in accordance with their respective regulations.

The originating department must follow the following procedure:

- A. Originator must complete and sign a Gregg County Inventory Form and send original form to the Purchasing Department for processing.
- B. Purchasing Agent or designee will inspect the property and will make a determination on the condition of the surplus property.
- C. On the recommendation of the Purchasing Agent, the commissioners court, by approval, may declare the property surplus and no longer needed by the county and authorize disposal of the property.
- D. Disposal will be as follows:
 1. Inventory tags will be removed (by purchasing prior to auction) and a list will be given to the County Auditor.

2. Property will be turned over to an approved auctioneer. The auctioneer will be responsible for following established State of Texas law for the advertisement, soliciting and bidding of property.
 3. Auctioneer will auction the property after publication, as per law.
- E. All sales will be handled by the giving of a check or cashier's check. All receipts and proceeds will be given to the County Auditor for appropriate deposit to Gregg County Accounts.
- F. Trade-Ins, items that are beyond repair, no longer of use, or surplus may be traded-in on more useful like items, with approval of commissioners court.

In all cases where property is declared surplus, property shall be removed from county inventory by the Purchasing Department. Since title to all personal property is vested to Gregg County, no property may be sold, traded, or disposed of without commissioners court action, with the following exceptions:

- Scrap building materials,
- Parts of equipment that cannot be used or identified. In such cases, the Purchasing Agent shall inspect the personal property and declare them scrap, making a written notation for the record of the nature of the item(s), the reason for scraping, and the date of disposal. Such records shall be kept for at least three years.

Relocation of Furniture and Equipment

The moving of county inventory must be coordinated with the Purchasing Department. Each department must complete a Gregg County Inventory Transfer Request Form and submit the original form to the Purchasing Department for processing. The Purchasing Department will review the items requested to be re-located and will contact departments to verify a time and date for said items to be moved within two weeks from the original date of request. (Please note Purchasing has to get aid from other departments to get furniture re-located)

The Purchasing Department is not responsible for re-location of furniture, nor the assembly or the disassembly of furniture..

All requests to move computer equipment and/or peripherals must be approved and coordinated by the IT Department.

DEBARMENT AND SUSPENSION

In an effort to provide assurance to the Federal Government that the State of Texas and its sub-recipients comply with Federal Executive Order 12549, 44 CFR § 13.35 (“Sub-awards to debarred and suspended parties”), and the Texas Uniform Grant Management System (UGMS), the Texas Department of Public Safety/Texas Homeland Security-State Administrative Agency requires all Homeland Security Grant Program sub-recipients (to include all programs administered by the TXDPS/THS-SAA) check the debarment status of all vendors before contracting with or making any purchases with funds from any federal grant.

The Excluded Parties Listing Systems (EPLS) is an electronic database of parties excluded from federal procurement and non-procurement programs and is located at <https://www.SAM.Gov>. The EPLS identifies those parties excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and nonfinancial assistance and benefits.

AUTHORITY

Executive Order 12549 – Debarment and Suspension

POLICY

Prior to procuring or entering into contract(s) for any goods/services, the sub-recipient must check debarment status of the vendor using the EPLS system (<https://www.SAM.Gov>) and document that verification has occurred. This policy applies to the procurement of all goods or services regardless of unit price or quantity.

All purchases with grant Funds shall comply with the rules, standards, or procedures as required by the granting agency. These requirements will include but not limited to adherence to Uniform Grant management Standards, Code of Federal Regulations, Single Audit Act, Texas Homeland Security State Administrative Information Bulletins and any other applicable regulations specific to any and all grant funding awarded to Gregg County.

Purchases requested from grant funds must include the following information on the requisition from the requesting department:

- ✓ Grant Name & Fund Number
- ✓ Vendor Debarment Information
- ✓ Verifiable documentation for all purchases approved by the Commissioners Court

The Purchasing Agent and or designee should seek approval from the County Grant Administrator prior to authorizing and purchases from grant funds.

OFFICIAL REPRESENTATIVE

The County Purchasing Agent or designee shall verify the debarment status of all vendors prior to utilizing Homeland Security Grant Funds, using the EPLS system ([SAM.gov](https://www.SAM.gov)).

PROCEDURE

- Go to the EPLS Website (<https://www.SAM.Gov>).
- The County Purchaser or their agent will search the EPLS system for the vendor.
- If the vendor is found to be debarred, the vendor may not be used for procurements utilizing Homeland Security Grant Funds.

- If the vendor is found not to be debarred, print the screen page and retain with the procurement documentation.
- A copy of the screen print indicating the vendor is not debarred, at the time of the procurement, must be included with the supporting documentation submitted to the Texas Homeland Security State Administrative Agency requesting reimbursement or advance.

SAA Monitoring

During monitoring and reviews, sub-recipients must be able to provide proof of a written policy requiring verification of debarment status. Records of vendors verified should be retained for audit purposes (maintain a copy of the screen print verification from the EPLS website) throughout the record retention period for the particular grant. Status will be checked www.SAM.gov

Procurement Card Policy and Procedures

1. Purpose

To establish a policy and method for the use of county issued procurement cards to full time Gregg County employees in order to make purchases of goods and/ or services. This card policy is not intended to replace, but rather supplement existing county purchasing policies.

According to Vernon's Texas Codes Annotated, Local Government, Section 262.011, (o) The county purchasing agent shall adopt the rules and procedures necessary to implement the agent's duties under this section subject to approval by the commissioners' court. Notwithstanding other law, rules and procedures adopted under this subsection may include rules and procedures for persons to use county purchasing cards to pay for county purchases under the direction and supervision of the county purchasing agent. By this policy, the Gregg County Commissioners' Court authorizes the use of county provided procurement cards ("Card").

2. Definitions

Bank – The bank selected by the County to provide the card program.

Cut-Off Dates: Reconciliations must be complete and forwarded to the Purchasing Department no later than the 5th business day after the receipt of statement.

Departmental Procurement Card Coordinator – An individual or backup approved by the Department Head who is responsible for administration and control of the departmental implementation of the Procurement Card Policies and Procedures.

Program Administrator – The County Purchasing Agent is the Program Administrator and will serve as a single point of contact between Gregg County and the bank for general oversight of the Procurement Card Program.

Procurement Card – The card is a commercial credit card for purchase of goods and/or services necessary for official county business. The card may be issued to an individual, full-time employee for purchases by the designated employee only.

Procurement Cardholders – Full-time, permanent employees that have been designated by the department head to be issued a card in their name for use under these policies and procedures.

Single Purchase Limit – A dollar amount limitation of purchasing authority delegated to a cardholder. This dollar amount shall be established by the Program Administrator.

Vendor – A company from which a cardholder is purchasing materials and/or equipment or services under the provisions of this procedure.

3. Responsibilities

It shall be the responsibility of the Purchasing Agent to:

- A. Develop policy and procedures for use of the card in compliance with Local Government Code, Section 262.011, (o).
- B. Administer the Procurement Card Program, to include the following responsibilities:
 - ✓ Serve as initial contact with the bank for cards
 - ✓ Approve/process applications for the issuance of cards for users in compliance with the requirements as stated in the policy
 - ✓ Establish guidelines and criteria for transactions and cumulative dollar limits for cards
 - ✓ Approve and process changes to cardholder limits as authorized by elected officials and department heads
 - ✓ Keep a current list of cardholders, card numbers and card limits
 - ✓ Coordinate training on card usage
 - ✓ Review departmental compliance
 - ✓ Cancel and suspend cards as necessary or requested by elected officials and department heads

It shall be the responsibility of all Officials/Department Heads to:

- ✓ Designate which employees will receive a card and recommend limits for each cardholder's account. Cardholder limits will include monthly spending limits, number of transactions per day, number of transactions per billing cycle, and merchant category restrictions. These limits will be based on the cardholder's procurement requirements and will not exceed the limits established by Program Administrator
- ✓ Departmental transactions for payment processing will be approved by elected official or department head.
- ✓ Recommend suspension or cancellation of a card to the Program Administrator
- ✓ Notify Program Administrator to cancel card privileges, if employee is terminated or changes positions; collection of card from employees
- ✓ Verify that information on the Card Application Form is correct and that cards are issued within the guidelines established by Program Administrator
- ✓ Monitor purchases made by cardholders
- ✓ Enforce compliance of submission requirements and dates; review receipts and expense report reconciliations for submission to the Purchasing Department
- ✓ Code general ledger account numbers to online card transactions before submission for payables process
- ✓ Review card applications or changes to card controls prior to submission
- ✓ Designate a system to maintain receipts and reconcile to expense report for each cardholder reporting to him/her

Designated Cardholders will be responsible for the following:

- ✓ Read and sign a Procurement Cardholder Agreement prior to being issued a card
- ✓ Assume responsibility for all purchases made with the card,
- ✓ Inform merchant of tax exempt status; cardholder will be responsible for notifying vendor for tax credit or reimbursing the tax amount to the county
- ✓ Keep itemized receipts and update online card transactions on a daily basis

- ✓ Verify charges posted on expense report and sign report.
- ✓ Immediately report lost or stolen cards to the bank toll-free number and the Program Administrator by phone and then notify the official or department head on appropriate form to be forwarded to the Program Administrator
- ✓ Make every reasonable effort to resolve disputed purchases with the vendor
- ✓ Immediately report all unresolved disputed purchases to the Program Administrator using the appropriate form

4. Procedures

A. Applying for a County Procurement Card:

1. Employees requesting a procurement card must submit an application to the Program Administrator. Employees requesting a procurement card must be approved by the appropriate elected official or department head responsible for the department in which the employee works.
2. Program Administrator shall have final authority for card issuance with approved limits identified.
3. The approved cardholder shall be issued a copy of this policy and shall be required to execute an Employee Agreement.
4. In the event of any extenuating circumstances, the Program Administrator may request a temporary increase in limits.
5. The Program Administrator may retrieve and destroy cards as required to protect the County's interests.
6. The Program Administrator and Auditor's Office shall maintain all records of procurement cards.
7. Departments must submit a requisition requesting a **monthly** "open" purchase order must for each procurement card and should include an estimated dollar amount per **account** (i.e. Supplies & Other 730100, est. \$100 or Repairs & Maintenance 732800, est. \$300).

B. Authorized Procurement Card Use

Procurement cards may be used to purchase any item and/or service for immediate use not prohibited by statutes, this policy, or other policies approved by the Commissioners Court. Procurement cards and usage of them is not intended to replace the standard Purchase Order System. The total purchase with the card will not exceed the limits established for that card. All other procurement policies remain in effect and cards should not be used to circumvent them. The card can be used only by the authorized cardholder, **NO OTHER PERSON IS AUTHORIZED TO USE THE CARD**. The cardholder is responsible for all uses of his/her card

Use of the procurement card shall be limited to the following conditions:

- Point of sale transactions only
- The total value of a transaction shall not exceed the established single purchase limit or the monthly per card limit. If extenuating circumstances were to occur, the Program Administrator should be consulted immediately for guidance
- Payment for a purchase will not be split into multiple transactions to stay within the single purchase limit

- Cardholder shall inform the vendor that goods/services are on a tax-exempt status. Cardholders will be responsible for seeking credit on any taxes charged or will be responsible to reimburse those taxes
- The card may be used for on-line internet purchases when purchase orders are not accepted and the best value to the County has been determined to be an on-line purchase
- Goods/services that can be obtained from contract vendors should be purchased from the contract vendors when available and not with the county procurement card
- Routine purchases are small value items where the use of procurement card is more efficient for products and only when the vendor will not accept a purchase order. Routine supplies do not include stock items.
- Cardholder shall not avoid competitive bidding requirements
- Cardholder may use the procurement card for certain travel/education expenses including but not limited to lodging (excluding incidentals), airfare, baggage fees, parking fees, vehicle rentals, shuttle services, taxi fares, conference registration (only if the conference association will not accept a purchase order)

C. Unauthorized Procurement Card Use

A cardholder who makes unauthorized purchases or carelessly or fraudulently uses a county procurement card, may be liable for the total dollar amount of such unauthorized purchases plus any administrative fees charged by the bank or other associated costs in connection with the misuse. The cardholder will also be subject to legal and disciplinary action up to and including termination.

Any purchases that the Program Administrator deems prohibited will be sent back to the cardholder for justification and/or explanation. *Unauthorized purchases could be considered misappropriation of county funds and could be subject to prosecution.*

If any prohibited charges appear in the cardholder's transactions, the following may occur:

- The Program Administrator will investigate all circumstances surrounding alleged misuse of the card and in cases where there is evidence of a procedure or policy violation; refer that information to the appropriate authority for investigations and/or disciplinary action.
- Failure of cardholder to submit itemized receipts or credit slips with expense report could result in suspension of card.
- Termination of employment and forfeiture of the card are potential disciplinary actions for improper use of the card.
- In those cases where there is evidence of negligent use of the card, the cardholder will be required to surrender the card with all further privileges revoked.

Any employee having knowledge of violations to this procedure or any other procedure or policy governing the use of the card must immediately report such activity to the Program Administrator.

The card may be suspended or terminated if a procurement cardholder is suspected of fraud, theft, or illegal drug use. Should the suspicion prove founded, appropriate action shall be taken in accordance with existing County policies and procedures.

Gregg County Procurement Cards **SHALL NOT BE USED** for the following:

- Personal expenditures
- Cash advances or refunds
- Sales tax except in cases where state statute does not exempt local governments
- A single purchase that exceeds the cardholder's single purchase limit unless a higher limit has been agreed in writing with the elected official or department head and Program Administrator
- Procurement card purchases for meals related to travel/education will not be allowed on procurement card
- Telephone calls/monthly service
- Gasoline for non-county vehicles
- Entertainment of any kind, including the purchase of alcohol
- Separate, sequential, and component purchases or transactions made with the intent to circumvent state statutes or county policy
- Purchases that are split to stay within card transaction limits
- Other purchases specifically excluded in other county policies or by statutes

D. Making a Purchase

Procurement procedures permit a purchase of goods or services, if the value is \$500.00 or less, to be made from a "vendor of choice." This implies the possibility of not comparing sources or competition between vendors. However, it is also policy to seek competition when possible, utilize existing contracts, and seek the lowest prices within the parameters of quality and delivery. Accordingly, whenever making a procurement card purchase, the cardholder will check sources of supply as reasonable to the situation to assure the best price and delivery. The cardholder must request a purchase order to the Purchasing Department **PRIOR TO MAKING ANY CARD PURCHASE**.

- a. Cardholders will utilize the following "checklist" when **making a purchase over \$500.00**:
 - ✓ Check with the Purchasing Department to see if vendors and prices have already been established for the required goods. If not, solicit a reasonable number of sources as applicable to the situation. If vendors furnish standing price quotations or catalog prices on a recurring basis, check that the price listed is current
 - ✓ Once a vendor is designated and that vendor confirms that the good or service is available, meets the specification and delivery requirements, etc., take the following steps:
 1. The Cardholder must request a Purchase Order to the Purchasing Department **PRIOR TO MAKING ANY CARD PURCHASE**
 2. Confirm that the vendor agrees to accept the procurement card
 3. Assure that all purchases be sent to the cardholder ordering the merchandise, as this will ensure that the documents necessary for the record keeping are readily available to the cardholder.
 4. Assure that sales taxes are not added to the Purchase.

E. Cardholder records keeping

All transactions must be supported by original itemized receipts, credits and the itemized monthly statement. If the receipt is lost, cardholder must obtain a duplicate receipt at their own

expense from the vendor or the bank. For purchases made over the phone a logging system with unique transaction identifiers should be maintained and a faxed or e-mail confirmation of the order should be retained until the original receipt is received. *All purchases made on the Internet will be considered on a case by case basis and require prior written approval by the Purchasing Agent.*

- a. The Departmental Card Program Coordinators must maintain all original receipts in a secure location until they are reconciled and turned in to the Purchasing Department with the applicable Purchase Order **by the 5th business day** after receipt of statement. More than two (2) reminders to a cardholder that the credit card bill is delinquent may be grounds for withdrawing the procurement card from that user.
- b. The applicable department supervisor shall approve all card transactions to verify the purchases were made in accordance with application process and policy:
 - ✓ Receipts & shipping documents exist for each purchase
 - ✓ The goods were received or the services were performed
 - ✓ The cardholder has complied with applicable procedures
- c. If the cardholder does not have documentation of a transaction, he/she shall attach a signed explanation that includes a description of the items(s) purchased, date of purchase, vendor's name and reason for lack of supporting documentation. Lack of documentation may be grounds for immediately revoking card privileges
- d. Procurement Card Returns — If an item is not satisfactory, received wrong, damaged and/or defective, duplicate order, etc., the cardholder should make contact with the vendor to explain the problem and inquire about return policies.

F. Card Security

- a. It is the cardholder's responsibility to safeguard the procurement card
- b. The cardholder must not allow anyone to use his/her credit card. A violation in this regard may result in the cardholder having his/her card revoked
- c. If the card is lost or stolen, it is imperative to cancel the card immediately. Representatives are available 24 hours a day. The Program Administrator must also be notified immediately using the appropriate form. **The cardholder may be responsible for all charges made against the card from the time it is lost or stolen until the time the bank is notified, if the cardholder fails to immediately notify the bank upon discovering the loss**
- d. A new procurement card shall be promptly issued to the cardholder after the reported loss or theft. A card that is subsequently found by the cardholder after being reported lost shall be destroyed by the Program Administrator.

G. Disputed Transactions

Disputes, where possible, should be resolved promptly between the cardholder and the applicable vendor. Failure to address disputes immediately may result in an authorized purchase that the department could be responsible for paying even though the charge is incorrect. If the dispute cannot be resolved within 10 days, the cardholder should submit the disputed information to the Program Administrator. The credit should be reported on the next expense report with a notation being made that there is a disputed charge and expected credit.

H. Declined Transactions

If a vendor receives a “Decline” response from the bank after attempting to put through a card transaction, Cardholders should contact the Program Administrator with the following information for resolution:

- ✓ Account number
- ✓ Business where decline occurred
- ✓ Total transaction amount of the decline
- ✓ Date the decline occurred

After determining the reason for the “Decline” it may be necessary for the Program Administrator to authorize temporary or permanent changes to the cardholder’s control limits to process the transaction.

I. Changes to Existing Accounts

To make changes to an existing card account, a Card Change Form should be completed by the requesting employee and submitted to the appropriate elected official or department head for approval. Following approval, the form should be forwarded to the Program Administrator.

J. Termination Clause

The card is issued to an employee for the County’s convenience and may be suspended or terminated at any time by the County for non-compliance with County policies and procedures. Transfer, resignation, or terminations of employment are grounds for cancellation of the card. The cardholder should return the card to the Program Administrator and sign the return sheet.

K. Card Separation

Prior to separation from the County, or transfer to another department, the cardholder shall surrender the procurement card to his/her supervisor. It is important to cancel a card immediately upon an employee’s separation from employment. The bank or the Credit Card Recovery Program will not cover any charges incurred between the employee’s termination date and the date the card is cancelled. The department will be responsible for payment of charges incurred by an employee no longer working in that department; if a delay in canceling privileges resulted of the department’s actions.