

*Welcome to County*

*Purchasing*

# TEXAS FINANCE LAWS LOCAL GOVERNMENT CODE

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## **Sections 113.043, 140.003, and 111.093**

- Cannot spend unless budgeted
- Cannot pay if purchase was not according to law
- Auditor must verify availability of funds (encumber) for contract to be enforceable (population over 225,000)

## **LGC 262.011(f)**

- The county auditor may not draw, and the county treasurer may not honor an electronic transfer, check, or warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.

# COUNTY PURCHASING ACT CHAPTER 262 LOCAL GOVT. CODE

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Subchapter A – General Provisions

Subchapter B – Purchasing Agents

Subchapter C – Competitive Bidding in General

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER B – PURCHASING AGENTS

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### § 262.011 - Purchasing Agent

- (a) Board may appoint Purchasing Agent (2 year term)
  - Under 150,000 – District Courts Judges and County Judge
  - Over 150,000 – 3 District Court Judges and 2 Commissioners Court (variations)
  
- (d) County Purchasing Agent shall purchase all supplies, materials, and equipment required or used, by the county or a subdivision, officer, or employee of the county...a person other than the county purchasing agent may not make the purchase of the supplies, material, or equipment or make the contract for repairs.
  
- (e) The county purchasing agent shall supervise all purchases made on competitive bid.

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER B – PURCHASING AGENTS

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### **§ 262.0115 - Purchasing Agents in Counties with Population of More than 100,000**

- (a) Commissioners Court may employ a person to act as county purchasing agent (if one has not been appointed under 262.011 and not been abolished)
- (b) Purchasing Agent shall carry out the functions prescribed under 262.011 and for any administrative function of the county auditor regarding county purchases and contracts and public bidding
- (c) Position may be abolished at any time and county auditor shall assume the functions regarding competitive bidding

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER C – COMPETITIVE BIDDING

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### § 262.0225 Competitive Procedures

- (a) All bidders shall have the opportunity to:
  - bid on the same items
    - on equal terms
    - have bids judged by the same standards as set forth in the specifications
  
- (b) Bids and proposals will be received in a fair and confidential manner
  
- (c) Bids may be accepted through electronic submission but county must also accept any bids or proposals submitted in hard-copy

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER C – COMPETITIVE BIDDING

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### § 262.023 Competitive Requirements

- (a) Sealed bids or proposals required for purchases exceeding \$50,000
  
- (c) Applies to purchase of one or more items
  - Component – component parts of an item
  - Separate – normally purchased in one purchase
  - Sequential – purchases over time

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER C – COMPETITIVE BIDDING

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### § 262.024 Discretionary Exemptions

- (a) Exempt from bidding IF Commissioners Court by order grants the exemption (*not all-inclusive*):
- (1) In a case of public calamity
  - (2) To preserve or protect public health or safety
  - (3) Unforeseen damage to public property
  - (4) Personal or professional services
  - (6) Land or right of way
  - (7) Sole source purchases
  - (8) Food
  - (9) Personal property sold at auction

# CHAPTER 262 LOCAL GOVERNMENT CODE

## SUBCHAPTER C – COMPETITIVE BIDDING

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### **§ 262.0245 Competitive Procedures**

Purchasing Agent or Commissioners Court shall adopt procedures that provide for competitive procurement, to the extent practicable for purchases not subject to competitive procurement

### **§ 262.025 Competitive Bidding Notice**

### **§ 262.027 Awarding of Contract**

### **§ 262.030 Competitive Proposal Procedure**

### **§ 262.0234 Criminal Penalties**

# OTHER STATUTES PURCHASING COMPLIES WITH

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- **LGC, Chapter 263**—Sales or Lease of County Property
- **LGC, Chapter 271**—Purchasing and Contracting by Municipalities, Counties and Certain Other Local Governments – Public Property
- **GC 2254** - Professional and Consulting Services
- **GC, Chapter 2269**—Construction Delivery Methods

# OTHER STATUTES PURCHASING COMPLIES WITH

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- **Code of Criminal Procedures, Art. 18.17**-- Disposition of Abandoned or Unclaimed Property
- **Code of Criminal Procedures, Art. 59.06**— Disposition of Forfeited Property
- **Human Resources Code, Chapter 122**—Council on Purchasing from People with Disabilities
- **GC, Chapter 2251**—Prompt Payment Act
- **GC, Chapter 2267** -P3 Construction Method
- **Occupation Code Chapter -1001** Engineering
- **Occupation Code Chapter -1051** Architecture

# OTHER STATUTES PURCHASING COMPLIES WITH

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- **GC 2252, Subch. A**—Nonresident Bidders
- **GC 2252, Subch. B**—Interest on Retained Public Works Contract Payments
- **GC 2252, Subch. F** – No Foreign Terrorists, Iran, Sudan
- **GC 2253**—Public Work Performance and Payment Bonds
- **GC 2260** Resolution Certain Claims Against State
- **GC 2270 & 808** Israel Preference
- **Worker's Compensation Agency, Rule 110.108 & 110.110**—Requirements for Worker's Compensation Coverage
- **GC, Chapter 791**—Interlocal Cooperation Act
- **GC, Chapter 2258**—Prevailing Wage Rates
- **LGC, Chapter 140**—Financial Provisions Affecting Local Governments
- **LGC, Chapter 171 and 176**-- Regulation of Conflicts of Interest

# PROCUREMENT'S ACCOUNTABILITY

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**Taxpayers**

**County Users**

**Partner/  
Suppliers**

**Service**

**Quality**

**Economy**

**Competition**

**Fairness**

**Equality**

# WORKING IN A FISHBOWL

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- All decisions must be fully justified and defensible



# NINE STEPS OF PURCHASING

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- 1) Recognition of need(s)
- 2) Description of needs(s)
- 3) Analysis of sources of supply and selection
- 4) Determination of prices, terms and conditions
- 5) Preparation and placement of purchase order(s)
- 6) Follow-up and expedition
- 7) Receipt and inspection of materials
- 8) Clearance of invoice and payment to suppliers
- 9) Maintenance of records

# PRIMARY GOALS OF PURCHASING

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The main objectives are six Right's , i.e., obtaining goods and services that are:

- 1) of the right quality,
- 2) in the right quantity,
- 3) at the right time,
- 4) for the right place
- 5) with the right services, and
- 6) at the right price

# DENTON COUNTY GUIDELINES

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## **Purchases Below \$5,000**

- No quote required but if one is obtained, please attach to requisition
- Purchasing reserves, the right to verify quote, or to obtain additional quotes

## **Purchases from \$5,000 to \$24,999**

- Obtain two quotes or forward all requirements to Purchasing
- Request for quote must include complete scope of work, terms and conditions, pre-quote meeting details, and due date for quotes
- Quotes must include vendor information, cost for goods and services including shipping and installation
- Quote form available on intrasite
- If no response is received from vendor by due date, they are considered “no-bids” and must be documented
- New vendors must submit W-9 before they can be entered into the County system
- Purchasing reserves, the right to verify quote, or to obtain additional quotes

# DENTON COUNTY GUIDELINES

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## **Purchases over \$25,000**

- Forward all requirements to Purchasing
- Decision on solicitation method (quote, bid, RFP) will be made
- Allow adequate time for processing

## **Cooperative Contracts**

- Cooperative contracts like BuyBoard, DIR, Sourcewell, and Omnia Partners meet the competitive bid requirements outlined in Chapter 262 of the Local Government Code
- Only one quote is required if goods/services are part of cooperative contract
- Contract number should be listed on quote
- Purchasing may choose to obtain additional quotes
- Purchasing verifies item or service quoted is part of the cooperative contract and reviews contract terms

# WHY COMPETITION MATTERS

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Competition is important to public procurement and the primary goals include:

- Encourage fairness
- Secure the best value for goods and services at lowest price
- Competition is in the best interest and benefit of the taxpayers

# SOLICITATION METHODS

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- Quotes - formal and informal quotes can be obtained for small purchases
- Bids and Requests for Proposals - contracts over \$50K must be competed through a bid or RFP process
- Cooperative Contracts - contracts that meet competitive bid requirements

# PURCHASES UNDER \$50,000

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# QUOTE GUIDELINES

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- Vendors should not be privileged to quotes from other vendors
- Vendors should be rotated to ensure competition
- All quotes obtained should be submitted with requisition (including “no-bids”)
- Lowest price should be accepted, all other factors being equal
- Breaking up purchases to avoid guidelines is unacceptable
- Never obligate the County without PO in place first
- Contact Purchasing if you have any questions

# PURCHASE ORDER

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- Purchase Order is contract
- The Purchase Order can initiate the following actions:
  - (a) Offer
  - (b) Acceptance
  - (c) Confirmation
- Acceptance by the vendor gives the authority to ship goods and commits government funds for payment if the goods meet specifications.

# PURCHASES OVER \$50,000

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# COMPETITIVE PROCEDURES

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## Chapter 262 Sub. Ch. C - Bidding Procedures

Sealed bids or proposals are required for purchases exceeding \$50,000. Intentional avoidance of bidding is in violation of the Local Government Code.

All bidders shall have the opportunity to:

- Bid on the same items and on equal terms
- Have proposals judged by the same standards as set forth in the specifications
- Bids and proposals will be received in a fair and confidential manner

# Comparison – Bid vs. Proposal

<b>Activity Description</b>	<b>Competitive Sealed Bids</b>	<b>Competitive Sealed Proposals</b>
When to use	When specifications or statement of work is well defined	When agency looks for proposer to develop and provide ideas or solutions
Opening	Public – price announced; and all data available to other bidders and the public	Public – only names of proposers are read; no pricing or other data made available (subject to local laws)
Evaluation	Based strictly on specifications – no material changes allowed	Based on quality with evaluation committee assigning weighted values to various parts of proposal
Discussion	None	Discussion may be conducted with each proposer to determine understanding of proposal requirements
Negotiation	None	Each qualified supplier is requested to submit a Best and Final Offer as a result of the in-depth review
Award	Lowest Responsible and Responsive Bidder	Best Value Proposal – not necessarily lowest price

# COMPETITIVE SOLICITATION REQUIREMENTS

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- Department notifies purchasing of their needs.
- Purchasing determines the type of solicitation either Bid, RFP or RFQ.
- Purchasing works with the department to develop the scope of work and funding.
- Purchasing develops the procurement schedule.
- Determine who is on the evaluation team. (RFP and RFQ's)
- Review the evaluation criteria with the department. (RFP and RFQ's)
- Determine how pricing will be evaluated.
- Review the final specifications with the department.

# SPECIFICATIONS

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- Mean what you say and say what you mean







# COMPETITIVE SOLICITATION REQUIREMENTS

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- Create the project in eProcurement software.
- Determine which vendors to notify of the solicitation.
- Prepare agenda placement for Commissioner's Court to approve the specifications and authorize advertisement.
- Prepare advertisement for local newspaper.
- Release the Bid, RFP or RFQ
- Schedule the pre-proposal meeting
- Review and answers questions submitted online through the eProcurement system.

# COMPETITIVE SOLICITATION REQUIREMENTS

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- Open the responses.
- Prepare proposals for evaluation committee to evaluate. (RFP and RFQ)
- Interview and finalize negotiations with committee's recommended shortlist vendors. (RFP and RFQ)
- Finalize the evaluation process with committee. (RFP and RFQ)
- Prepare recommendation for Commissioner's Court approval.
- Upon approval, issue the award and non-award letters
- Either issue a purchase order or work with Civil DA to finalize contract.

# Fixed Assets

# FIXED ASSETS & CONTROLLED INVENTORY

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- Purchasing is responsible for accounting for all fixed assets (property valued at or over \$5,000) annually
- All other high value property with a cost less than \$5,000 is considered Controlled Inventory and is the responsibility of the individual departments

# ASSET MANAGEMENT

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- Annual Inventory
- Surplus sale
- Property transfers
- Prepares title and renewal registration of county fleet.

# CHAPTER 263 LOCAL GOVERNMENT CODE

## SUBCHAPTER D - DISPOSITION OF PROPERTY

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### § 263.152 Disposition

Commissioners Court may *(not all inclusive)*:

- Sell surplus or salvage property by competitive bid or auction
- Offer as trade-in for new property of same general type
- Order destroyed or otherwise disposed as worthless if tried to sell and did not receive bids
- Sell to another county or entity within county
- Donate to charity under certain specific conditions

### Code of Criminal Procedure

- Art. 18.17 - Disposition of abandoned or unclaimed property
- Art. 59.06 - Disposition of forfeited property

# P-CARD PROGRAM

# P-CARD ADMINISTRATION

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- Download of statement from Citi Bank.
- Reviews all transactions to ensure compliance with county policy.
- Ensures each cardholder reconciles their portion of the statement.
- Reconciles complete statement.
- Notifies Accounts Payable the statement can be paid.

# CARDHOLDER RESPONSIBILITIES

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- Shall be used **ONLY** by employee whose name is embossed on card
- No other person is authorized to use the card
- Cardholder may make purchases on behalf of other employees as authorized
- Cardholder is responsible for **ALL** use of card

# APPROVED USE OF P-CARDS

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- Routine supplies
- Supplies in the field in work stoppage situations
- Approved internet purchases
- In situations where the vendor does not accept purchase orders
- Training and education
  - Registration, airfare, lodging, taxi
  - Shuttles, rental cars, baggage fees

# UNAUTHORIZED USE OF P-CARDS

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- Personal purchases or purchases for family and friends
- Single purchases that exceed cardholder limit
- Personal Meals and Incidentals
- Entertainment Expenses
- Cash Advances
- Telephone Calls
- Gasoline for Non-County Vehicles
- Alcoholic Beverages
- Any items or services restricted by policy
  - Software & Tech Items (except for TS)

# CONTRACT ADMINISTRATION

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- Contract Administrator manages all contracts, to include:
  - Data entry into the contract management software.
  - Bid opening
  - Review of insurance, I 295 Form, bond verification, payment bonds and performance bonds.
- Respond to open records request
- Tracks contract agenda items
- Manages Bonfire

# THANK YOU

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