

# **BRAZORIA COUNTY**



## **PURCHASING**

### **POLICY AND PROCEDURE MANUAL**

## FORWARD

### THE COUNTY PURCHASING DIRECTOR'S MISSION

1. To establish policies and procedures that are in full compliance with procurement laws.
2. To work in concert with the County Auditor as part of the system of checks and balances to ensure the proper expenditure of taxpayer's dollars.

Centralized purchasing is valuable for a number of reasons:

- To ensure compliance with procurement laws by establishing policies and procedures that are consistent with the Texas Local Government Code.
- To allow for the consolidation of small purchases by individual departments into larger volume purchases for the entire County.
- The Purchasing office, and its personnel, have and will increasingly develop a solid foundation of knowledge and experience about purchasing, marketing trends, prices and vendors. This knowledge, expertise and volume purchasing power gives Brazoria County leverage with vendors which will demand lower prices while ensuring county-wide accountability.
- Centralized knowledge and expertise puts the purchasing functions on a professional footing and inspires public confidence in the actions of the County.

It is the intent of this manual to promote effective and consistent procurement in Brazoria County.

This manual explains the policies and procedures to be followed in the implementation of the duties of the County Purchasing Director.

The following references were used in the compilation of this manual:

Model Purchasing Manual for Texas Cities & Counties: Published by the State Comptroller's Office.

Texas Code 262: Purchasing & Contracting Authority of Counties.

Texas Code 271: Purchasing & Contracting Authority of Municipalities, Counties and certain other Local Governments.

Model Procurement Code for Governments: Published by the ABA

Texas Association of Counties Model Procurement Manual

This procedure manual is for all Brazoria County purchases subject to the County Procurement Act and procedures described in Texas Local Government Code 262 & 271. Certain Brazoria County departments have discretionary funds that are not subject to the Texas Procurement Act.

In the intent of good procurement practices, the Purchasing Department is always willing to competitively procure items financed by these funds. Department heads and elected officials are encouraged to work with Purchasing to pursue cost savings that may be realized through competitive procurement operations.

Please identify, via requisition notes, any purchase that is funded by a discretionary fund, that a department head or elected official does not wish to be competitively solicited by the Purchasing Department.

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**I. BRAZORIA COUNTY PURCHASING CODE OF ETHICS:**

**A. GENERAL ETHICAL STANDARD**

It shall be a breach of ethics and law:

- to attempt to realize personal gain through public employment with Brazoria County by any conduct inconsistent with the proper discharge of the employee’s duties.
- to attempt to influence any public employee of Brazoria County to breach the standards of ethical conduct set forth in this code.
- for any employee of Brazoria County to participate directly or indirectly in a procurement when the employee knows that:
  - the employee, or a member of the employee's immediate family, has a financial interest pertaining to the procurement;
  - a business or organization in which the employee, or any member of the employees immediate family, has a financial interest pertaining to the procurement; or
  - Any other person, business, or organization with whom the employee, or any member of the employee's immediate family, is negotiating or, has an arrangement concerning prospective employment, is involved in the procurement.
- to offer, give or agree to give any employee or former employee of Brazoria County, or for any employee or former employee of Brazoria County to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other peculiar matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal, therefore, pending before this local government.
- for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Brazoria County, or any person associated therewith, as an inducement for the award of a subcontract or order.

(Contract Clause - The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.).

- For any employee or former employee of Brazoria County knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any person.<sup>1</sup>

**ANY INTENTIONAL VIOLATION OF LAW WILL BE PROSECUTED BY THE FULL EXTENT OF THE LAW.**

**ALL COUNTY PERSONNEL INVOLVED IN PURCHASING DECISIONS SHALL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAW**

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<sup>1</sup> This Code of Ethics is taken from the “Standard Financial Management System for Texas Cities and Counties – Model Purchasing Manual.”

**Criminal Penalties for violation of the Procurement Act:**

**LGC 262.011. Purchasing Agents**

(m) A person, including an officer, agent, or employee of a county or of a subdivision or department of a county, commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10 or more than \$100. Each act in violation of this section is a separate offense.

(n) This section applies to all purchases of supplies, materials, and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county by contract.

**LGC 262.023. Competitive Requirements for Certain Purchases**

(c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract.

**Criminal Penalties:**

**LGC 262.034 Criminal Penalties**

(a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

(c) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

**II. RELATIONSHIPS:**

**A. Relationship of Purchasing Department and other County Departments:**

The Purchasing Department is a service organization acting as an intermediary between County offices and its vendors. To successfully represent the best interests of the County, it is essential to have the cooperation and a strong working relationship with all County offices. This section of the Purchasing Manual is to be used as a guide to assist in identifying and understanding the responsibilities and obligations required in the purchasing process.

**B. Relationship with Vendor's Representative:**

1. The buyer-seller relationship is one of mutuality. The responsibility of establishing and maintaining a professional relationship between the County and its suppliers lies with the Purchasing Department. For this reason, it is imperative that the Purchasing Department be made aware of proposed transactions involving the County.

2. It is the responsibility of the Purchasing Department to represent County departments in the purchasing process. This includes the contact normally associated with sales calls. By observing the policies and procedures outlined in this manual, the time of both the County and its suppliers will be maximized.

3. The relationship between the County Purchasing Department and vendor representatives will be as follows:

a. Representatives of vendors may be received by the Purchasing Department between 8 a.m. and 5 p.m. Appointments are recommended.

- b. Any useful information received from interviews, catalogs, advertising, etc., will be filed in the Purchasing Department's Specification Library. Departments are encouraged to visit the library during normal working hours (8 a.m. to 5 p.m., Monday through Friday), if they are seeking information.
- c. All correspondence with suppliers should originate in the Purchasing Department. Should a County department head find it necessary to correspond with a vendor for any reason, a copy of the correspondence should be sent to the Purchasing Department. Estimated costs for requisition information purposes may be obtained from vendor catalogs or by obtaining an informal estimate from the vendor. Departments may not negotiate or make commitments to vendors without Purchasing Department approval.
- d. All County personnel must keep themselves free from the image of conflict of interest by not accepting favors, gifts or entertainment offered by any vendor.

### III. RESPONSIBILITIES:

A. RESPONSIBILITIES OF PURCHASING AGENT: The County Purchasing Director is responsible for:

- 1. Having a working knowledge of and following the Texas procurement laws. For purchasing related functions utilizing Federal funds, the County will comply with CFR 200 318 (a) through 200.326 of the Code of Federal Regulations.
- 2. Assisting all county departments in meeting their needs for operating equipment, supplies, and materials.
- 3. Securing products that meet the requirements of the department at the lowest and best price to the County.
- 4. Knowing the sources and availability of needed products.
- 5. Reviewing and approving specifications submitted by end-users.
- 6. Maintaining all Certificates of Interested Parties Form 1295 for all contracts that require approval by the Commissioners' Court.

B. REQUISITIONER: The Requisitioner is responsible for:

- 1. Proper planning, submitting requisitions in a timely fashion, and allowing the County Purchasing Office sufficient time to competitively purchase each requisition submitted, select the vendor, place the order and allow the vendor to make delivery.
- 2. Preparing detailed specifications.
- 3. Supplying in advance, if requested, a list of anticipated purchases.
- 4. Notifying the County Purchasing Director of any abnormal or unusual demands.
- 5. Not obligating the County for purchases of goods or services.
- 6. Avoiding illegal or improper purchases.
- 7. Providing the County Purchasing Director with a COMPLETE, CLEAR, CONCISE DESCRIPTION of the item(s) or service(s) requested. The Buyers need to know exactly

what you need. You may not get what you were expecting, if the description is too brief or incorrect.

8. MONITORING annual contracts and blanket orders and initiating renewal procedures prior to expiration in order to avoid interruptions in service. Departments must provide adequate lead time order processing by submitting the renewal request, along with proper specifications, at least sixty (60) days prior to expiration.

C. GENERAL GUIDELINES:

Departments should be cognizant of budget balances, and plan accordingly.

Plan purchases in order to keep “expedited” and “emergency” requisitions to a minimum. The County rarely enjoys any economic benefits from rush and emergency purchases. In most cases, prices for commodities and services are at a premium when there is not proper time allowed for the Purchasing Department to explore sources, options and obtain competitive pricing. The Brazoria County Purchasing Department is committed to expediting all purchase requisitions within a reasonable time frame.

Provide the Purchasing Department ample time to process purchase requests.

1. Departments should allow a 3-10 working day cycle time for purchases less than \$5,000. This allows Purchasing the opportunity to consolidate requisitions and obtain competitive quotes when appropriate.
2. Departments should allow up to a three (3) week cycle time on all purchases requested that will exceed \$4,999.99 but are under \$50,000.
3. Purchases between \$25,000 and \$50,000 require informal written quotes. Allow up to a three (3) week cycle time.
4. On purchases \$50,000 or more, a department should allow a four (4) to twelve (12) week turnaround as formal bids or proposals will be required

NOTE: CYCLE TIME REFERS TO THE TIME BETWEEN WHEN A REQUISITION IS RECEIVED IN PURCHASING AND ASSIGNED TO A BUYER, AND WHEN AN ACTUAL PURCHASE ORDER IS PLACED WITH A VENDOR. CYCLE TIME DOES NOT INCLUDE THE TIME REQUIRED FOR DELIVERY OR THE TIME IT TAKES FOR THE BUYER OR USER DEPARTMENT TO MAKE CORRECTIONS OR ADDITIONS TO THE REQUISITION. CYCLE TIME DOES NOT START UNTIL ALL SPECIFICATIONS ARE PROVIDED.

Assure that all County employees responsible for making department requests for purchases have read and understand the purchasing procedures of Brazoria County.

Review all purchase requests to assure they are descriptive and specific but do not prevent competitive bidding of comparable items.

Since there is no central receiving point, each department is responsible for receiving commodities and services. Departments should make Purchasing aware of a shortage, late delivery, damaged merchandise or any other problem relating to the vendor’s performance within two (2) days by calling the Purchasing Department and following up with a written explanation of the situation, if requested.

Departments should understand and appreciate the nature of public purchasing and compose all purchase requests with the purpose of promoting competitive bidding.

#### IV. THE PURCHASING POLICY:

##### LGC 262.011. Purchasing Agents

(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 of 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 repairs.

##### 262.0225. Additional Competitive Procedures

(a) In the procedure for competitive bidding under this subchapter, the commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.

- A. 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 of 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 a contract for repairs.
- B. The County Purchasing Director shall supervise all purchases made on competitive bids, and after the Commissioners' Court award, shall see that all purchased supplies, materials and equipment are delivered to the proper county officer or department in accordance with the purchase contract. §262.011(e) Texas Local Government Code.
- C. A purchase made by the County Purchasing Director shall be paid for by a warrant drawn by the County Auditor on funds in the County Treasury in the manner provided by law. The County Auditor may not draw and the County Treasury may not honor a warrant for a purchase unless the purchase is made by the County Purchasing Director or on competitive bid as provided by law. §262.011(f) Texas Local Government Code.
- D. Purchases will be of a quality suitable for the purpose intended at the least expense to the County.
- E. Purchases require the use of a requisition from the using department. No purchase order or purchase order number will be issued until a proper requisition is received in the Purchasing Department.
- F. Purchase Orders or commitments to buy will be prepared and issued only by the County Purchasing Director or his employees. 262.011(d).
- G. Using departments may be authorized to issue "P.O. releases" against established contracts or blanket purchase orders.
- H. Selection of vendor on non-bid purchases rests exclusively with the County Purchasing Department. The County Purchasing Director has neither the duty, power, authority, nor desire to determine whether or not a purchase should be made; his authority extends only to selection of vendor.
- I. PURCHASE ORDERS MAY NOT BE ISSUED AFTER THE FACT, UNLESS APPROVED BY COMMISSIONER'S COURT. There are two reasons for this policy:
  - 1. The Texas Local Government Code is quite clear on the point that the County Purchasing Director makes ALL purchases (except those made on competitive bid). Issuing a purchase order after the fact seeks to validate an improper purchase.

2. Should the County Purchasing Director issue a purchase order after a county employee has already made the purchase, dual deliveries may result.
- J. Brazoria County will not be obligated to purchase equipment or accessories that are delivered for use on a trial basis.
- K. The following purchasing actions that are made with the intention of avoiding competitive bidding requirements are in violation of the law: (Texas Code 262.023). An offense under this subsection is a Class C or B Misdemeanor depending on the type of violation: (see 262.034)
- COMPONENT PURCHASES: purchasing an item that would normally have been bid as a whole in a series of component purchases
  - SEPARATE PURCHASES: purchasing an item in a series of separate purchases that normally would have been purchased in one
  - SEQUENTIAL PURCHASES: purchases made over a period of time that in normal purchasing practices would be made as one purchase.

**262.034 Criminal Penalties**

(a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

- L. No County employee has the authority to request a purchase of supplies, materials equipment or services for his/her own personal use.
- M. Any commitment to acquire goods or services without an authorized purchase order is prohibited. Anyone authorizing an expenditure of funds for goods or services prior to securing a proper purchase order may be held personally responsible the payment.

**N. Process to use when the County receives no responsive bids:**

Per Texas Local Government Code 262.0225(d), a county that complies in good faith with the competitive bidding requirements of Texas Local Government Code 262.0225 and receives no responsive bids for an item, may procure the item under Section 262.0245.

Section. 262.0245. COMPETITIVE PROCUREMENT PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS OR COMMISSIONERS COURT. A county purchasing agent or, in a county without a purchasing agent, the commissioners court shall adopt procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement or for which the county receives no responsive bid.

The following procedure will be used by the County Purchasing Agent when no responsive bids are received:

- 1) Advertise for formal procurement a second time.
- 2) If no responsive bids are received after two (2) formal procurement attempts, the County Purchasing Agent shall solicit at least three (3) vendors for informal quotes without advertisement. A “no quote” or “no response” from a vendor will count as a solicit.
- 3) The County Purchasing Agent shall review the quote(s) received and make a recommendation to Commissioners’ Court for approval to award based on the informal Request for Quote process.

## V. THE REQUISITION:

The following section describes the requisitioning process.

Requisitioning is the formal request for a purchase to be made. It is the first step after the need for a good or service is recognized.

The requisition process must include a system of authorizations and safeguards so that improper or illegal purchasing is difficult both to initiate and to conceal.

TEXAS COUNTIES ARE REQUIRED BY STATUTE TO USE REQUISITIONS (Local Government Code, Section 113.901).

In order to issue a purchase order, a proper requisition must be received in the Purchasing Department.

1. The purpose of a requisition is to inform the Purchasing Department of the needs of the requesting department, and to correctly identify the material requested.
2. A requisition is required, regardless of dollar value.
3. The requisition must be prepared far enough in advance of the required delivery date to enable the County Purchasing Department to perform their required duties and to allow time for delivery by the vendor.
4. The department head or authorized person within the department will prepare the requisition.
5. Requisitions should fully describe to the Purchasing Department what to buy, when it is required and where the product is to be delivered or the service that is to be performed. Requisitions must contain the following data:
  - a. Commodity code.
  - b. Requested Delivery date.
  - c. Suggested vendor, address, phone no., fax no., contact name.
  - d. "Ship to" address. (Department street address)
  - e. Funding source. (account number)
  - f. Quantity.
  - g. Estimated unit cost.
  - h. Complete description of item(s), (including model/stock#, color, size) "MISC. SUPPLIES" is not sufficient.
  - i. "Bill to" address.
  - j. Project code (if applicable)
  - k. Unit of measure.
  - l. End User's Name

6. Please refer the Purchasing Department to a particular vendor whose product has been used previously and has been found to be satisfactory. The vendor suggested will be given full consideration by the Purchasing Department.
7. If a trade-in is involved, requisitions must show the county tag number, serial number, make, model and any other pertinent information of the equipment to be traded.
8. Requisitions for services will include an accompanying memo or statement of work from the requisitioning department that will provide additional details regarding the required service, if necessary.
9. Estimated costs may be obtained from vendor catalogs or by obtaining an informal estimate from the vendor. Departments may not negotiate or make commitments to vendors without Purchasing Department permission.
10. The following non-biddable purchases do not require formal purchase orders and may be obtained by submitting a check request (bill head) to the auditors' Office: travel related expenses, hotel reservations, airline tickets, meals, seminars & training, postage, professional memberships.

**VI. PURCHASE ORDERS:**

**A. THE ROUTINE PURCHASE ORDER:**

1. The Purchase Order is the seller's authorization to invoice and deliver the equipment, materials, supplies or service specified. All Purchase Orders should be written concisely and clearly to avoid misunderstandings and unnecessary correspondence with vendors.
2. The Purchase Order will be issued by the County Purchasing Department only. The using department will submit all requisitions to the County Purchasing Department and will NOT enter into negotiations with any vendor for the purchase of equipment, materials, supplies or services except as outlined in the expedited purchase procedure. The Purchasing Department will assign all Purchase Orders to the vendor.
3. Dollar thresholds for purchase orders:

If a requisition requires an expenditure of funds in an amount less than \$50,000.00, the Purchasing Department will make and approve all purchases unilaterally. Purchasing will take an action appropriate to the following thresholds:

- Less than \$5,000.00 -

Informal quotations may or may not be solicited on a requisition according to Purchasing Department determination.

- \$5,000.00 & less than \$25,000.00 -

Telephone price quotations will be sought. All telephone quotations will be documented and recorded by the Purchasing Department.

- \$25,000.00 & less than \$50,000.00 -

Informal written bids quotes will be solicited.

- Purchases **Exceeding** \$49,999.00 -

Will be conducted by the informal, written, bid process.

Purchases \$50,000 and above will be procured using the formal solicitation process as described in **LCG 262** and **271**. **Texas Government Code 2269 will be used for public work contracts. Purchases utilizing Federal funds will comply with the applicable sections of CFR 200 318 (a) through 200.326 of the Code of Federal Regulations**

The Purchasing Director reserves the right to deviate from the policy for any purchases or under the competitive solicitation threshold, if it is in the best interest of Brazoria County and if it will facilitate specific County operations. If a deviation from the policy is required, the Purchasing Director will authorize the deviation by signing the Purchase Order giving approval.

**B. THE CONTRACT OR BLANKET PURCHASE ORDER:**

1. The Blanket Purchase Order (sometimes referred to as an open purchase order) is a cost-cutting tool used in purchasing departments throughout Texas and the United States. The Blanket P.O. is used to reduce time, reaction time, effort and paperwork; it is NOT, however, designed as a means to circumvent the competitive pricing system employed in sound purchasing departments.
2. Blanket Purchase Orders are appropriate in the following situations:
  - a. When the vendor and price of the desired item is set by competitive bid or contract and various quantities may be needed during the period of the contract.
  - b. For Urgently Needed Repair Parts:

The County Purchasing Director may establish blanket orders to be used to procure repair parts or other items that are required to prevent work slow downs, stoppages, service interruptions, hazardous situations or safety related emergencies. These blanket orders may be used only for the purchase of goods or services necessary to resolve the urgent situation. They may not be used to purchase general goods or services. Any abuse of the use of blanket purchase orders may result in the cancellation of the blanket and the use of individual requisitions. County employees who abuse the use of blanket orders may be held financially responsible for the purchased goods or services.
  - c. As determined by the County Purchasing Director, for specific products or services with established vendors (i.e., UTILITIES, towing services, transmission rebuilds, dealer replacement parts, automobile batteries, etc.).
  - d. For equipment rental when length of period is unknown.
  - e. When a remodeling project is planned and the logical material suppliers are known, but the purchase of all required materials at one time would be impractical.
  - f. At the discretion of the Purchasing Department, when to do so would be in the best interest of Brazoria County.
3. Blanket Purchase Orders are INAPPROPRIATE for the following:
  - a. Purchase of general supply items, unless on established contract. These purchases should be requested either as Routine or Expedited.

- b. “Going Shopping.” The taxpayers of Brazoria County deserve the best planning of which we are capable. The rationale that, “I have \$200.00 left and I need a blanket purchase order to XYZ Supply Company to use it up,” is contrary to the trust placed in each of us.
  - c. “Just in Case.” Requesting Blanket Purchase Orders to be issued to a number of vendors on a regular basis “just in case we may need them” is a direct reflection on the planning capabilities of the end user.
4. Blanket Purchase Orders must be requisitioned as with any other purchase and must contain information required on all requisitions:
- a. Commodity code. (future)
  - b. Requested delivery date.
  - c. Suggested vendor, address, phone no., fax no., contact name.
  - d. Ship to address.
  - e. Funding source.
  - f. Quantity.
  - g. Total dollars committed. Only bid items may exceed \$25,000.
  - h. Complete description of item(s), (including model/stock#, color, size) “MISC. SUPPLIES” will not be accepted.
  - i. Bill to address.
  - j. Project code. (if applicable)
  - k. Period of time. Expiration date must be within current fiscal year.
5. When a Blanket Purchase Order is issued to a department it is important that the department keep a running total of their purchases.
6. Contracts: After contract award, a user may be directed by the Purchasing Director to procure the contracted goods and services as needed by issuing releases against the contract or Blanket Purchase Order.

Contracts for Goods or Services: The user department needs to monitor and document contractor performance/compliance. All documentation of non-compliance should be shared with Purchasing.

To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc. must be documented.

C. THE EXPEDITED OR RUSH PURCHASE ORDER:

1. Expedited Requisitions

Departments should plan purchases in order to keep “expedited” and “emergency” requisitions to a minimum. The County receives no economic benefit from expedited and emergency orders.

In most cases, prices for commodities and services are at a premium when there is not proper time allowed for the Purchasing Department to explore sources, options and alternatives.

Requisitions for expedited purchases are handled differently than routine purchases. There are two classes of expedited purchases:

- a. Purchases required within three days to prevent unacceptable work slow downs or service deficiencies; or
- b. purchases required immediately to prevent actual work stoppages or service interruption.

Expedited purchases are not emergency purchases. They are for items needed quickly to prevent costly delays and, therefore, warrant the additional cost and effort caused by the interruption of the normal work routine. However, they are not to be used unless absolutely required.

Note: For all expedited or emergency purchases must be competitively bid under normal circumstances, an emergency must be declared and an exemption granted by Commissioners' Court in order to bypass the competitive solicitation process.

2. Expedited Purchases:

NOTE: No expedited purchase order will be issued without an approved requisition. Expedited requisitions must have a written explanation of the need for an expedited purchase.\*

3. Requisitioning Procedures:

a. Standard Expedited or Rush Order:

- (1) The requisition is prepared according to normal procedures.
- (2) The preparer should then notify Purchasing by telephone, specifying that an expedited requisition is being delivered to Purchasing. Give Purchasing all available details.
- (3) Obtain required signature approvals or electronic authorizations.
- (4) Hand-carry or transmit the requisition to Purchasing. Purchasing makes the purchase in accordance with competitive bidding or non-bid purchase procedures.

b. Urgent Expedited Order:

If the purchase is required immediately to prevent actual work stoppages or service interruptions, the following procedures are required:

- (1) The requisition is prepared according to normal procedures.
- (2) The preparer should then notify Purchasing by telephone, specifying that an urgent, expedited requisition is being delivered to Purchasing. Give Purchasing all available details.

- (3) Purchasing begins the purchase process upon receiving the telephone call and makes the purchase when the requisition is received in the Purchasing Department in accordance with normal procedures.

4. Emergency Purchases:

Texas statutes generally allow the local government to make emergency or exempted purchases without competitive bidding. (Local Government Code 262 or 271). The Court must approve exempted purchases.

A county is generally exempted from competitive bidding if:

- a. in case of a public calamity, the prompt purchase of items is required to provide for the needs of the public or to preserve the property of the political subdivision;
- b. the item is necessary to preserve or protect the public health or safety of residents of the political subdivision; or
- c. the item is made necessary by unforeseen damage to public property.

5. For counties, the exemption must be granted by the commissioner's court.

\*The written explanation must include either of the following statements according to the circumstance:

1. Standard Expedited Order: The purchase of these goods or services are required in order to prevent unacceptable work slow downs or deficiencies; or
2. Urgent Expedited Order: The purchase of these goods and services are required to prevent actual work stoppages or service interruptions.

If the purchase would normally require competitive bidding, the using department must prepare an Emergency Declaration for presentation to Commissioners Court on the next court date.

D. PROCEDURE FOR MAKING EMERGENCY PURCHASES FOR ITEMS OVER THE STATUTORY AMOUNT:

1. Qualification. The purchase must qualify as an exempted purchase under the requirements for exemption listed in Local Government Code Chapter 262 at Section 262.024 (a) (1), (2) and (3). (See VI.C.4 above, "Emergency Purchases" and the exemptions described in a., b. and c. of that sub-section.)
2. Designation. The designation of emergency purchase indicates a situation of such urgency that the normal purchasing procedure must be modified in the interest of speed and, therefore, no competitive bids are required if the Commissioners' Court has previously granted an exception for the item pursuant to Section 262.024, Local Government Code.
3. Normal Working Hours. All emergency purchases occurring during normal working hours are processed through the purchasing department as follows:
  - a. The using department will notify the purchasing office by telephone immediately, with as much information as possible about the emergency purchase required, so that the purchasing action can be initiated immediately.

- b. Simultaneously, a purchasing requisition is prepared by the using department and delivered to Purchasing, along with a written declaration of emergency.
  - c. If the cost of the purchase will exceed the statutory amount, the proposed purchase shall be submitted to Commissioners' Court for approval as an exempted purchase.
  - d. The Purchasing Department or using department head contacts as many vendors as necessary to arrange the emergency purchase. If time permits, the purchase order is completed according to normal procedures. Otherwise, the purchase is completed by telephone and the purchase order is completed after-the-fact and delivered to the vendor.
  - e. The buyer requests expedited delivery. The person making the requisition may be required to pick up the emergency purchase from the vendor if expedited delivery is not available.
4. Evenings, Weekends and Holidays. For other than normal working hours, when purchasing support is unavailable, emergency purchases that are not subject to competitive bidding requirements (less than statutory amount) as follows:
- a. The responsible official of the using department takes whatever steps are necessary to procure needed supplies, services or equipment to relieve the emergency situation. If possible, only those goods or services needed during the evening, weekend or holiday are procured.
  - b. On the first working day following the emergency, the responsible official prepares a requisition and delivers it to the purchasing office, as described above. Attach the invoices, bills of materials, receipts or other documents related to the purchase to the requisition.
5. The official in charge of the using department must certify in writing on the next business day, or as soon thereafter as possible, that the purchase involved was necessary because of one of the reasons listed in Local Government Code 262.024(a)(1), (2) or (3). A copy of the required written Declaration of Emergency is included in this package. (See Appendix III)

E. PROCEDURE FOR SOLE SOURCE PURCHASES:

Sole source purchases are handled the same as other purchases, with the following exceptions:

- 1. If the requisitioning party determines that the item is a sole source purchase, they must attach a statement to the requisition that only one practical source of supply exists, or state the reasons why only one source of supply exists. The requisitioning party must also include a statement explaining why only one particular item or model will fulfill their needs.
- 2. The requisition is then completed in the normal fashion.
- 3. If the Purchasing Director determines that the item is a sole source purchase, he/she will sign the justification.
- 4. All sole source purchases should be approved by the Purchasing Director. The approval should be done before a purchase order is issued.

5. For orders exceeding the statutory amount, Commissioners' Court must receive a signed justification from the requisitioning party stating that the purchase can be obtained from only one source (see Appendix II), and then must enter an order approving an exemption of the purchase as a sole source purchase at a Commissioners' Court meeting.
6. After the requisition is approved, the purchase order is prepared.

NOTE: Please see justification for proprietary or non-competitive purchase form. This form shall serve as the sole source justification statement that will be submitted to Commissioners' Court.

The requisitioner will send the form to the Purchasing Director for review and approval. The Purchasing Director will present the justification to the next Commissioners' Court meeting. The requisitioner shall attend the meeting and be available for any questions from the Court.

F. INTERNAL REPAIRS BY OUTSIDE VENDOR

Bids or quotes are not required for internal repairs (to County owned equipment) that cannot reasonably be defined prior to an actual repair and are less than the statutory amount. Otherwise, the Purchasing Office will obtain quotes.

CAUTION: By definition an internal repair must contain vendor labor and may include parts also.

To complete an internal repair, the using department should complete a requisition reflecting an estimated cost. Purchasing will issue a repair purchase order. After the repair is complete, the department may need to submit a revised requisition, within (24) hours, to Purchasing, reflecting the actual cost of the repair.

**VII. INVOICES:**

- A. The invoice is an itemized statement of merchandise delivered or services rendered and is a guide for the County in settling financial obligations incurred. Invoices are based upon purchase orders and, therefore, should contain the same information. Any difference between the invoice and the purchase order should be resolved with the vendor immediately and always before payment.

NO PAYMENT EXCEEDING THE COSTS SHOWN ON THE PURCHASE ORDER IS PERMITTED.

- B. Information an invoice should contain:
  1. The purchase order number.
  2. An itemized list of merchandise received or services rendered.
  3. The prices, terms, quantities and other pertinent information on the purchase order.
  4. Charges for delivery, freight, etc., must be listed separately.

**VIII. INSPECTING, TESTING, RECEIVING, AND PAYMENT:**

- A. All equipment, materials and supplies received need to be inspected by, or under the supervision of, the department head to determine whether or not they conform with the specifications set forth in the purchase order or contract. This requirement will be delegated by the department head to personnel qualified to perform such inspections.

- B. Upon receipt of merchandise, and after inspection and testing, the receiving agent will show, via PeopleSoft, the receipt certifying that specifications were met and requesting payment of the invoice.
- C. If the receiving department refuses to accept the merchandise because of a failure to meet the specifications, they will immediately contact the purchasing department, and state their reasons for withholding acceptance. The purchasing department will then take immediate action to compel replacement by the vendor, cancel the order, or otherwise take action to supply the department with the needed merchandise.
- D. If partial shipments are received, purchasing department should be notified immediately. Purchasing can then contact the supplier to determine the reason for delay and the date of delivery of the balance of the order.
- E. If an instance arises requiring outside testing laboratories to be utilized, the necessary arrangements will be made by the County Purchasing Director. Payment for testing will normally be made from the requesting department's budget. If the test reveals non-spec materials have been supplied, the vendor will pay for the testing or face possible disqualification from future bidding.
- F. If an invoice price exceeds the purchase order unit price, the auditor's office may pay the amount specified on the purchase order unit price and reject the balance. If the unit invoice price is lower than the purchase order unit price, the Auditor may pay the lower price.
- G. If an overage is received, the overage must either be returned to the vendor or a requisition must be issued by the end user if the end user wishes to keep the overage.

**IX. THE FORMAL COMPETITIVE FORMAL SOLICITATION (BIDS AND PROPOSALS) PROCESS:**

- A. The County Purchasing Director is the chief coordinator and operator of the formal solicitation system (bids and proposals).
- B. The County Purchasing Director shall:
  - 1. Seek Commissioners' Court authorization to advertise for offers, with the responsible department head present should any Court member have questions or comments.
    - a. Any departmental request for submission to Commissioners' Court needs to be received in Purchasing 2 days prior to the scheduled deadline set by the County Judge's office.
    - b. Requests for permission to advertise for bids must contain competitive specifications. Sole source documentation is required if specifications restrict product to one supplier or manufacturer.
  - 2. Prepare, with technical assistance (specification preparation) from the responsible department head, the solicitation package.
    - a. Specifications shall be prepared by the requisitioning department. Specifications shall provide for and encourage the maximum amount of competition possible. Specifications should be broad enough to fit at least three (3) different products, if possible. If specifications restrict product to one supplier or manufacturer, a sole source justification must be attached to the specifications by the department.

3. Submit bid specifications or work statement to Commissioners' Court for approval. If the desired product is only available from one (1) vendor or manufacturer, the end user needs to submit a sole source justification along with the specifications.
4. Advertise as required by law.
5. Distribute solicitation packages.
6. Open the offers on the proper date at the indicated time.
7. Prepare analysis of bids. Obtain signed concurrence of selection from user department head.
8. Consult with department heads and/or advisory committee and submit recommendations and analysis to Commissioners Court.
9. In concert with the District Attorney, prepare contracts, if required.
10. Notify successful bidder and obtain signed contract, if applicable.
11. Advise requesting department head when the above have been completed and prescribe receiving and inspection procedures to be used.
12. Issue the purchase order.

**X. BEST VALUE PROCUREMENT POLICY:**

Best value procurement is a technique used in a competitive solicitation process which emphasizes life cycle value and permits the evaluation of criteria such as qualifications, experience, operating costs, on-going maintenance, expected life, reliability and other performance data to determine the best overall value of a product or service to an agency. The total life cycle cost of a product or service is assessed, rather than awarding a product or service on low bid alone.

Chapter 262, section 262.030 of the Texas Local Government Code as well as Chapter 2267, section 2267.055 of the Texas Government Code give the County the ability to utilize factors other than price in making award determination.

Local Government Code, Chapter 262, Purchasing and Contracting Authorities of Counties:

Section 262.030 Alternative Competitive Proposal Procedure for Certain Goods and Services

a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:

- (1) landscape maintenance;
- (2) travel management; or
- (3) recycling.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. **In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.**

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Texas Government Code, Chapter 2269, Section 2269.055, Contracting and Delivery Procedures for Construction Projects, Criteria to Consider

**(a) In determining the award of a contract under this chapter, the governmental entity may consider:**

- (1) the price;*
- (2) the offeror's experience and reputation;*
- (3) the quality of the offeror's goods or services;*
- (4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;*
- (5) the offeror's safety record;*
- (6) the offeror's proposed personnel;*
- (7) whether the offeror's financial capability is appropriate to the size and scope of the project; and*
- (8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.*

**X1 CREDIT APPLICATIONS**

All credit applications will be completed by the County Auditor.

**XII PROJECT MANAGEMENT**

The department head or their designee shall perform project management duties.

Project management duties include monitoring the contractor or vendor to ensure compliance with the specifications, statement of work and terms/conditions of the contract. The project manager should work with the vendor to correct any problems that arise with contractor performance.

It is imperative to document, in writing, all instances of performance issues and to document communication with the contractor.

If contractor fails to correct performance issues, the project manager may contact Purchasing to take corrective action, including contract termination.

**XIII ENVIRONMENTAL POLICY:**

1) Purpose:

The purpose of the environmental purchasing policy is to support the purchase of recycled products as well as to recycle County-owned surplus products for reuse when practical and possible. The Purchasing Department recognizes that purchasing recycled products not only reduces waste, but can also generate cost savings to the County. The goal of this policy is to encourage the use of recycled products in procurement decisions while still maintaining the ongoing goal of cost savings.

2) Policy:

While still maintaining maximum cost savings, performance, safety and availability, the Brazoria County Purchasing Department will make efforts to find ways to reuse and recycle surplus, reduce waste and to procure recycled products in order to minimize environmental impacts. The Purchasing Department will work with vendors and provide our user departments with information to facilitate their purchase of environmental friendly products when feasible. Purchases utilizing federal funds will comply with 2 CFR 200.322.

3) Goals to reduce, reuse and recycle:

Purchase of remanufactured toner and ink cartridges:

Goal is to purchase 50% of our overall toner spend by purchasing remanufactured toner instead of OEM toner.

Purchase of remanufactured computer/printer parts.

Encourage the consolidation of orders and the purchase of bulk items for Brazoria County and with other governmental entities in order to reduce delivery costs and to reduce fuel emissions.

Contract for scrap metal disposition/recycling

Purchase recycled landscape supplies such as recycled tire mulch

Ongoing surplus computer donations to Texas Department of Criminal Justice

Encourage departments to reuse furniture and office equipment held in surplus in order to avoid purchasing new.

Hold an annual "office supply swap" between departments. Goal is to have at least one office supply swap per year and to find departments who can use the surplus office supplies not needed by another department. Whatever is left, the Purchasing Department will sell in auction, after court approval.

Purchase of natural janitorial paper products instead of bleached white paper, as well as the purchase recycled printed business envelopes. Goal is to purchase at least 25% of janitorial paper products as unbleached and to purchase 80% of printed business envelopes as recycled.

**XIV FEDERAL AND HOMELAND SECURITY FUNDS**

The County Purchasing Department shall verify debarment status of all vendors prior to utilizing Federal and Homeland Security funds, using the EPLS system (<https://SAM.gov>).

**XV. PROCEDURES FOR DOCUMENTATION OF DEBARMENT:**

To ensure a vendor is not under debarment, the county purchaser or their agent must:

- A. Go to the <https://www.SAM.Gov> website

- B. The County Purchaser or their agent, or the agent's designee, will search the EPLS System for the vendor.
- C. If the vendor is found to be debarred, the vendor may not be used for procurement utilizing Homeland Security Grant Funds.
- D. If the vendor is found not to be debarred, print the screen page and retain with procurement documentation.
- E. 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 or to the applicable federal funding agency.

## **XVI PROCUREMENT CARD PROCEDURES**

### **A. INTRODUCTION**

A Brazoria County Procurement ("P") Card, which is a MasterCard issued by CitiBank, may be assigned to an employee / department to assist in procuring supplies and/or services in the event of a declared disaster or emergency situation:

- 1) when a purchase order cannot be attained expeditiously

A Procurement ("P") Card may also be assigned to the Brazoria County Public Information Officer for payment of emergency and non-emergency notifications to the public using social media, including Facebook.

Texas Local Government Code 262.011 defines a person "who is authorized by the county purchasing agent to use a county purchasing card while making a county purchase is considered an assistant of the county purchasing agent to the extent the person complies with the rules and procedures prescribed for the use of county purchasing cards as adopted by the county purchasing agent under Subsection (o)". Section (o) states that "The county purchasing agent shall adopt the rules and procedures necessary to implement the agent's duties under this section subject to approval by commissioners' court."

### **B. RECEIVING A PROCUREMENT CARD**

Before a Procurement Card is assigned, the Cardholder User Agreement shall be signed by the cardholder, as well as by their respective Department Head.

### **C. AUTHORIZED CREDIT CARD USE**

- 1. The unique procurement card that the cardholder receives has his/her name embossed on it and shall be used ONLY by the cardholder.
- 2. Lost or stolen cards, as well as any fraudulent charges found on the procurement card statement, shall be reported immediately to the County Purchasing Agent.
- 3. The total value of a single transaction for goods/services shall not exceed \$3,500.00. Payment for a purchase must not be split up into multiple transactions to stay within the not to exceed limit.
- 4. Cardholder shall inform the vendor that goods/services are tax-exempt. If needed, a tax-exempt form can be obtained from the Purchasing Department or the Auditor's Office.

### **D. CARDHOLDER RECORD KEEPING**

Documentation, such as a charge receipt or a confirmation statement, shall be retained by the cardholder as proof of the purchase. Prior to signing a receipt, the cardholder is responsible for making sure the vendor lists the quantity and description on the receipt. Such documentation will be used to verify the purchases

listed on the cardholder's monthly statement of account and must contain specific information of each item purchased.

#### E. REVIEW OF MONTHLY STATEMENT

At the end of each billing cycle, the cardholder shall retrieve his/her monthly statement of account that will list the cardholders transactions for that period.

The cardholder shall check each transaction listed against any receipts, confirmations and shipping documents, to verify the monthly statement.

The original sales documents for all transactions listed on the monthly statement must be attached to a printout of the monthly statement.

After this review, the cardholder shall sign and present the monthly statement to his/her supervisor for approval and signature. The monthly statement, with attached documentation, shall then be forwarded to the Auditor for payment.

The following shall be checked against the statement:

- 1) Receipts exist for each purchase.
- 2) The goods or services were satisfactorily received.