

Chambers County Purchasing Policy



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Introduction

This policy includes the procedures authorized for purchasing by County elected officials, department heads and other designated employees. These procedures are in accordance with the Purchasing Agent and subsequently approved in Chambers County Commissioners Court.

County procurement is governed by Texas statutes. These statutes, including interpretations made by Texas courts, are the final authority in determining validity of purchasing procedures. In many cases, this policy will reference state law, often paraphrasing or offering broad generalization to aide in the application of the law. All unique circumstances cannot be addressed, and in the case of unusual circumstances the final authority will be the law itself according to the Purchasing Agent.

This policy has been written to be used by Chambers County elected officials and department heads to help them remain in compliance with Texas laws governing County procurement. It has been adopted by the Commissioners Court on this day, February 14th, 2023 and go into effect immediately.

Purchasing Mission Statement

The Purchasing Department is responsible for the purchasing of all products and services for all departments in Chambers County. There are many aspects to the different purchasing methods including, but not limited to, receipt of requisitions, issuance of purchase orders and formal bidding processes. These should all be done with the goal of procuring goods and services in a way that is most beneficial to Chambers County taking into account pricing, quality, necessary requirements, etc., all the while promoting fair and open competition within compliance of all laws, regulations and County policies.

The primary objective of the Purchasing Department is to procure the goods and services necessary to Chambers County with optimal quality and cost in a timely manner.

- ❖ Follow all statutes of the Texas Local Government Code and County Purchasing Act when procuring goods and services.
- ❖ Aim to procure all items at the best price available within standards of quality, quantity and availability.
- ❖ Utilize all tools and full buying power to maximize the benefit to Chambers County.
- ❖ Help guide other departments, when warranted, in the evaluation of vendors and analyzation of market pricing to reduce cost and ensure the quality of goods or services.
- ❖ Seek out reliable vendors, especially those within Chambers County, to create and promote competitive bidding and open competition.
- ❖ The best interest of the citizens of Chambers County should always be in mind throughout any purchasing process involving budgeted tax dollars.

Duties of the Purchasing Agent

- ❖ **Generally** – The Purchasing Agent will approve the purchase of any and all equipment, materials and supplies required by the County, as well as contracting repairs to County facilities or property, except any contracting or purchases required by Chapter 262 of the Texas Local Government Code to be made by competitive bidding. Only the Purchasing Agent may purchase equipment, materials or supplies or complete contracts on behalf of the County, except where permission is explicitly given within the Chambers County Purchasing Policy.
- ❖ **Inter-local Cooperation** – The Purchasing Agent should cooperate with procurement departments in surrounding local governments and municipalities, as well as state governments, to purchase items in greater volume and better costs or when necessary. Payments approved by the County Auditor shall be honored by the County Treasurer to reimburse other government entities making a purchase on the behalf of Chambers County.
- ❖ **Supervise Competitive Bidding** – The Purchasing Agent shall oversee all purchases made by competitive bid and ensure the procurement of items or services follows in accordance with the purchase order and contract.
- ❖ **Prepare Specifications** – The Purchasing Agent, in conjunction with the elected official or department head requesting the purchases of items or services requiring competitive bidding, shall prepare bid specifications to be approved by the Commissioners Court and advertised, received and awarded, pursuant to Chapter 262, Texas Local Government Code.
- ❖ **Inter-Department Transfers** – The Purchasing Agent shall seek opportunities to repurpose equipment, materials and supplies from any County department, officer or employee of the County that are not needed or used to another County department, officer or employee of the County for County use. The Purchasing Agent shall provide a list of all transferred equipment, materials and supplies to the County Auditor to record.
- ❖ **Disposal of Surplus Property** – The Purchasing Agent shall dispose of surplus or salvage property in accordance with state statutes within the Texas Local Government Code.

Legal Basis for Purchasing

- ❖ **Texas Gov. Code Chapter 171 (Conflict of Interest)** – A local public official may be required to refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision or act involves business interests or property owned by the public official or by a person related to the public official within the first degree of consanguinity or affinity.

“Local public official” includes members of the county governing body or other county officers, whether elected or appointed, paid or unpaid.

If the local public official has a substantial interest in a business that seeks to do business with the county, the official should file with the county clerk an affidavit stating clearly the nature and extent of his/her interest. The public official must then abstain from participation in any matter involving or between the county and the business in which they have the substantial interest. In particular, this includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business or contracts with the county. An official may not knowingly act as a surety on any official bond required of an officer of the county. A violation of any of these is a crime (Class A misdemeanor).

The Commissioners’ Court may contract for services or personal property with a business entity in which a member of the court has a substantial interest if the business entity is either the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners’ Court and bids on the contract.

- ❖ **Texas Gov. Code Chapter 262, Subch. A (County Contracting Agent)** – The Commissioners’ Court may at its discretion appoint an agent with authority to contract on behalf of the county for erecting or repairing county buildings, supervising them, or any other purpose authorized by law. Any contract or other act of such an agent that is properly executed on behalf of the county and is within the agent’s authority is binding on the county for all purposes.
- ❖ **Texas Gov. Code Chapter 262, Subch. B (County Purchaser)** – The judges of the district courts in a county and the county judge, as a board, by majority vote, may appoint a suitable person to act as the county purchaser. The purchaser’s term of office is two (2) years. A \$5,000 performance bond is required of the agent. If appointed, the county purchaser should purchases supplies, materials, and equipment required or used by the county, except purchases and contracts that are required to be obtained by competitive bid. The purchaser also supervises all purchases made by competitive bid.

In order to prevent unnecessary purchases, the county purchaser shall transfer any county supplies, materials, and equipment from any department not needing them to another department requiring them.

The County Purchaser may have assistants. The agent and his/her assistant may have any help, equipment, supplies, and/or traveling expenses that may be approved and considered advisable by the Commissioners’ Court.

- ❖ **Texas Gov. Code Chapter 262, Subch. C (Competitive Bidding)** – Otherwise known as the County Purchasing Act, is a comprehensive county purchasing statute. It includes:
 - Competitive bidding requirements, procedures and exemptions
 - An alternative competitive request scheme and proposal procedure for high technology items (see Sec. 262.030)
 - Bond requirements for bidders

Competitive bidding procedures must be strictly adhered to with the exception for certain specific exemptions enumerated in the statute. These include certain emergencies and goods or services involving sole suppliers. Failure to follow the bidding requirements of the act may subject the contract to injunction to prohibit its performance (see Sec. 262.033).

All separate, sequential, or component purchases of items ordered or purchased by the same officer or department from the same supplier in any attempt to avoid the bidding requirements are treated as parts of a single purchases or contract (see Sec. 262.023). Any county officer or employee who knowingly or intentionally makes or authorizes separate, sequential, or component purchases in avoidance of the competitive bidding requirements is guilty of a crime (Class B misdemeanor). Automatic and immediate removal of the officer or employee from his county office or positions results upon conviction (see Sec. 262.034(a)).

- ❖ **Texas Gov. Code Chapter 263, Subch. D (Salvage or Surplus Property)** – Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

Surplus or salvage property may be sold by competitive bid or may be auctioned. It also may be offered as a trade-in on new property of the same general type. If the Commissioners' Court cannot sell or trade-in the property, the property can be destroyed.

- ❖ **Texas Gov. Code Chapter 271, Subch. D (State Contract Purchases)** – The State Purchasing Local Government and other Purchasing Cooperatives to which Chambers County belongs may perform purchasing services for the county. The county shall adopt a resolution to participate in a Purchasing Cooperative. Purchases made under state contract or other authorized purchasing cooperatives satisfy all competitive bidding laws.
- ❖ **Texas Gov. Code Chapter 2254 (Professional Services Procurement Act)** – Contracts for professional services may not be bid. These contracts will be awarded based on “demonstrated competence and qualification for the type of professional services to be performed.” The fees must be “fair and reasonable”. They should be consistent with published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law. Professional Services include services within the scope of accounting, architecture, optometry, professional engineering. Purchasing may be requested by the court to post a request for qualifications (RFP) for professional services.

I. Purchasing Department Authority and Guidelines

The responsibilities of the Purchasing Department include purchasing equipment, materials, services, supplies and repairs to County owned property, except in cases requiring competitive bids by law. Competitively bid contracts are finalized through Commissioners Court and then signed by the County Judge. These bids shall be supervised by the Purchasing Agent in accordance with Purchasing Statutes. A competitive bidding process is generally required, based on circumstances, on purchases, construction or repairs for \$50,000 or more.

The general guidelines for purchasing and complying with this policy are as follow:

1. Make a determination whether the purchase requires a competitive bidding. Items required to be purchased through a competitive bidding will be purchased according to Section IV.
2. Other Purchases – Special procedures can be used to purchase certain goods and services, as described below:
 - a. Blanket Purchase Orders – purchase of goods or services on an “as needed” basis may be authorized in appropriate instances by a blanket purchase order. (See Section V, 2)
 - b. Professional and Professional Services – Professional and Personal Services are exempted from the competitive bidding process. They may be acquired through a Request for Qualifications. (See Section V, 4)
 - c. Unbudgeted Capital Expenditures – purchases without prior authorization in a Department’s budget must be brought before Commissioners Court to be authorized. (See Section V, 1)
 - d. Emergency Purchases – purchases meeting the requirements for competitive bidding can be exempt from the process by the Purchasing Agent and Commissioners Court if (1) a purchase is necessary immediately, due to public calamity, to meet a necessity of the citizens or preserve public property, (2) the purchase is necessary to preserve the public health or safety of county residents, or (3) the purchase is required due to unforeseen damage to public property. (See Section V, 5)
 - e. Work in Progress – if there is ongoing construction or a repair in progress, purchases may be exempted by the Purchasing Agent and paid for, as it is performed.
 - f. Land and Right-of-Way Acquisition – this may be exempted by Commissioners Court from the competitive bidding process.
 - g. Sole Source Items – an item only available to obtain from one source may be purchased without competitive bidding
 - h. Cooperative Purchasing Groups – The Purchasing Agent may approve the purchase of goods and services using an agreement with a number of cooperative purchasing groups available to Chambers County or by inter-local agreement with another public entity.

II. Requisitions

1. Purchases Requiring a Requisition

A requisition should be given for all purchases requiring a Purchase Order. The requisition informs the Purchasing Department that the requesting department has a need, and allows them to clearly identify the material being requested and account codes the funds will come from. Requisitions should include a vendor if one is known, or the department will allow the Purchasing Department time to find one.

2. Preparation of a Requisition

Standard requisition forms are available through the Purchasing Department. These forms may be delivered by e-mail or inter-office mail. A department may also make requisitions via e-mail provided all information necessary is included (See below). Elected officials or department heads must designate employees given the authorization to make requisitions. Authorized personnel will be on a list maintained by the Purchasing Department. An exception to the requisition process is when a bid has been approved in Commissioners Court. Items procured through competitive bidding that have been previously approved by the Court can be ordered by a designated employee in the department in need of the items. If there are ever any questions about a purchase, always go through the Purchasing Department.

A requisition must have all of the information listed below to be accepted by the Purchasing Department. (See Appendix Form 1)

- Department & Date
- Vendor (if known)
- Description & Specifications (attached URL link or quote are acceptable)
- Estimated Cost (attached quote is acceptable)
- Department Fund and Budget Line
- Date Approved in Court (if applicable)
- Cooperative Purchase Group (if applicable)

III. Purchase of Equipment, Materials and Supplies

If there is no current contract that has been competitively bid and approved in Commissioners Court for equipment, materials, or supplies, then the procurement should always be done through the Purchasing Department.

1. Responsibilities of the Purchasing Department

- a. Stay up to date of the needs of County departments
- b. Obtain adequate products at the least cost to the County
- c. Maintain an updated list of reliable vendors that can fulfill the needs of the County
- d. Work with all of the various County departments to keep equipment, materials and supplies on hand so to not impede County operations

2. Responsibilities of the Requesting Departments

- a. Allow time for vendors to get necessary equipment, materials and supplies to the County by presenting request in a timely manner
- b. Provide detailed specifications of items requested, such that the Purchasing Department can obtain products that will fulfill the need of the County
- c. Make no commitments on the County's behalf that have not been previously approved by the Purchasing Agent and Commissioners Court, except in emergency situations. (See Section V, E)

3. Purchasing Procedures

- a. Requisition – The requesting department shall provide a requisition to the Purchasing Department, as described in this policy. (See Section II, B)
- b. Purchase Order – Purchasing Department will process and issue a Purchase Order through County financial software. First, it will be verified that funds are available, and if not, the requisition will be returned to the requesting department to address appropriately. If the goods or services are more than \$5,000 or less than \$50,000, then the requesting department shall obtain three (3) quotations from approved vendors.
- c. Capital Purchases – A purchase is considered a capital item if it is over \$5,000. One of the following processes should be adhered to, unless otherwise stated within the Purchasing Policy.
 - i. If it is an unbudgeted capital expenditure, it will follow Section I, 2.c of this policy.
 - ii. If it is a budgeted capital expenditure of over \$50,000 it will be competitively bid.
 - iii. If a budgeted capital expenditure is less than \$50,000 the purchase can be made utilizing a different section of this policy.
- d. Processing Order – The Purchasing Department will send a copy of the purchase order to the vendor, if required, and a copy will be made available to the requesting department. The purchase order will be paid upon receipt of the goods or services by submission of the purchase order, invoice, and any corresponding shipping documents to the County Auditor.

IV. Bidding Process and Procedures

1. Competitive Bidding for Budgeted Purchase (over \$50,000)

- a. Responsibilities of the Requesting Department
 - i. Notify the Purchasing Department there is a need for goods or services that will require a formal bidding process well in advance of the desired purchase date.
 - ii. Be present in Commissioners Court for the authorization of the Purchasing Department to move further with the process.
- b. Responsibilities of the Purchasing Department
 - i. Ensure bid specifications are adequate as to general requirements, but reasonable in their restrictiveness.
 - ii. Attach required terms and conditions to bid specifications.
 - iii. Submit request to be on the Commissioners Court Agenda, and notify the requesting department of the date it will be presented.
 - iv. Once approved through Commissioners Court, distribute bid specifications, along with terms and conditions, to previously vetted vendors, as well as make public notice of a bidding opportunity.

2. Public Notice and General Bidding Guidelines

The Purchasing Department is required to ensure that all formal bidding processes are made public with legally required notice. Bidding specification shall not be made with the intentions of excluding any vendors from participation. Bidding specifications may be solicited on either lump sum or a unit price basis. Bidding guidelines shall be set such that each vendor's submission can be evaluated in a fair and even manner.

3. Bid Opening

Upon receipt of all bids submitted by the specific deadline set by the Purchasing Department, the bids will be opened in a public setting by the Purchasing Agent or his/her designated representative. All sealed bids are to be opened on a designated date at a specific time. Each submission shall be read aloud and will be recorded on a bid tabulation form. The requesting department and any of the present vendors will receive a copy of the bid tabulations. The requesting department shall have a representative present at the public bid opening.

4. Presentation to Commissioners Court

The Purchasing Agent and the requesting department will review the submitted bids to determine a recommendation for bid award to be placed on the next available Commissioners Court. The Purchasing Department will have provide the bid recommendation and bid summary to Commissioners Court and notify the requesting department of the date. The vendor awarded the bid shall be notified in advance and given the opportunity to be present in Court to speak on their behalf.

5. Bid Award

Bids shall be awarded based to the lowest and best vetted vendor. The Commissioners Court will consider the following, in addition to price:

- a. Quality of the goods or services
- b. Fulfillment of the needs of the requesting department
- c. Merit of the vendor in respect to qualifications, integrity, fiscal responsibility and, when applicable, past experience with Chambers County

In the event that only one bid is received by the County, the bid may be accepted by Commissioners Court if a determination is made that the price is fair and reasonable, as well as being offered by a thoroughly vetted vendor. If the bid is rejected, the Court has the option to instruct the Purchasing Agent to post a re-bid for the goods or services being solicited.

6. Bid Bonds

Awarded contracts may require a bond be acquired. The bond shall be included upfront in the bid solicitation by the Purchasing Agent. All contracts in excess of \$100,000 require a bid bond. The bid bond shall be more than 5% of the total contract price and executed through a surety authorized to do business in the state of Texas.

7. Performance Bonds

Before work may begin, and within 30 days of acceptance of a bid and signing of the contract, the vendor shall present a performance bond if required by the County. If the contract is in excess of \$50,000, then the performance bond will be for the full amount of the contract. In instances the contract is less than \$50,000, the County may note in the bid or proposal that no funds will be paid to the vendor until the contract has been fulfilled.

8. Change Orders

Change orders may be required under select circumstances after performance has begun of the contract. The Purchasing Agent has the authorization to approve an increase or decrease of an original contract price up to \$50,000. The original contract price cannot be increased by an amount greater than 25%. If the requested change order is greater than \$50,000, then it may only be approved by Commissioners Court. Any major alterations to the original plans or specifications must be submitted for approval to Commissioners Court.

V. Special Purchases

1. Unbudgeted Capital Purchases

Circumstances requiring the purchases of a capital item not accounted for in the County Budget, the following procedure should be followed to receive authorization to reallocate budget funds:

- a. The requesting department will discuss with the County Auditor if there are available departmental funds that may be reallocated for this purchase.
- b. The requesting department must submit a memo justifying the need for this purchase, along with the funds that will be used for the expenditure, to the Purchasing Agent. Normal purchasing procedures will apply.
- c. The requesting department will then present the request to Commissioners Court for approval.
- d. If the purchase is over \$50,000, then steps “a” and “c” shall be followed. After budget reallocation is approved, the Purchasing Agent will competitively bid the item.

2. Blanket Purchase Orders

Blanket Purchases Orders authorize a County department to obtain goods or services up to a specified amount from a specific vendor. A Blanket Purchase Order can only be authorized by the Purchasing Department, in appropriate circumstances (vehicle maintenance, construction projects, etc.) Blanket Purchase Orders with an anticipated yearly total to exceed \$50,000 must be competitively bid (See Section IV). Blanket Purchase Orders shall not exceed the budget for such purchases.

3. High Technology Items and Insurance

- a. High technology items will be obtained through a proposal process or through a purchasing cooperative group. ALL proposed purchases of IT equipment must be approved by the IT Department. All proposed communications purchases must be approved by the IT Department and/or the Office of Emergency Management.
- b. DIR Catalogue Purchasing Program
 - i. The requesting department must clearly and accurately describe the goods/services to be purchases to the IT Department.
 - ii. High Technology items may be purchases through the DIR system.

4. Professional Services

- a. Definition of Professional Services - Professional services include all services provided by or within the scope of services provided by architects, certified public accountants, licensed physicians, optometrists, and registered engineers. The Request for Proposal (RFP) process is used to procure professional services. Vendors of professional services will be selected based on merit and competency, rather than competitive bidding. The requesting department will review the experience and capabilities of the service providers through proposals and/or interviews.
- b. Procedure - The requesting department will seek approval from the Court for the Purchasing Department to facilitate the Request for Proposal process. Purchasing will send the RFP to potential providers and provide appropriate advertisement of the request, per state statute. The Purchasing Department will open proposals on the date specified in the RFP. The proposal shall be open for public inspection following award of the contract, except information containing confidential and trade secrets.
- c. Proposal Evaluation - The Purchasing Department will form a committee that includes the requesting department along with other appropriate selection members to discuss responsible providers after the RFP opening. All vendors shall receive fair and equitable consideration in these discussions and/or negotiations. The following items may be considered when selecting a vendor: cost, organizational structure and personnel, work history, and past experiences with Chambers County.
- d. Recommendation - After evaluations are complete, the requesting department will submit the evaluation committee's recommendation, as an Agenda item, to Commissioners Court for approval. Upon approval, the County Judge must sign the contract.

5. Emergency Purchases

In limited circumstances, Emergency Purchases may be granted: (a) in the event of public calamity, for the benefit of County citizens or to protect public property; (b) in order to protect the public health or safety of County residents; or (c) when made necessary by unforeseen damage to public property.

One of two procedures must be followed, depending on the time the emergency takes place.

- a. Working Hours Emergency
 - i. If the purchase is for less than \$50,000 and budgeted funds are available, then the requesting department must contact the Purchasing Agent to initiate an Emergency Purchase Order.
 - ii. If the purchase is for less than \$50,000 and budgeted funds are not available, then the requesting department must obtain approval from the County Auditor prior to contacting the Purchasing Agent for an Emergency Purchase Order.
 - iii. If the purchase is for more than \$50,000, then approval from 3 members of the Court is required for the Purchasing Agent to issue an Emergency Purchase Order.

b. After Hour Emergency

- i. The department must take necessary action to obtain the necessary goods or services. However, if the purchase is over \$50,000, the department must make a reasonable effort to contact the Purchasing Agent or County Judge to notify them or their designee that the emergency exists. The department shall notify Purchasing immediately the next working day to present a requisition for a purchase order.

6. Sole-Source Purchases

Items valued over \$1,000 that typically would require multiple quotes, or competitive bid if in excess of \$50,000, may be purchased if truly available from only one source. Items that fall into this category include patented or copyrighted material, secret processes, utility services, and replacement parts or components to existing equipment. Such items may be purchased as a Sole-Source Purchase ONLY with the written approval of the Purchasing Agent. If the purchase is over \$50,000 the Sole-Source approval along with the appropriate backup, will be submitted to the Court.

VI. Receipt of Items (Inspection/Testing)

Each County department is responsible for inspecting and/or testing all items to confirm quantity, quality and the specifications of the purchased goods.

Upon delivery of the items, the department will determine if they are acceptable. If the goods are damaged, or unacceptable in any way, the receiving department must notify the Purchasing Department immediately in writing. The Purchasing Department will then contact the vendor to order a replacement, cancel the order and use another vendor, or any other action required to resolve the issue.

VII. County Supplies and Equipment

1. Capital Assets

New property valued over \$5,000 will be catalogued as a Capital Asset in the county financial software. The Purchasing Department will document the purchase price, any identifying information (serial numbers, VINs, etc.). The Purchasing Agent shall file an inventory list of all Capital Assets of the county with the County Auditor and District Judges for the purpose of financial accounting.

2. Elected Official and Department Head Responsibility

All Elected Officials and Department Heads will be responsible for the custody and care of county property assigned to their respective department. County property may only be used for County purposes. Each Elected Official and Department Head is responsible for ensuring that property is tracked and secured in a manner that is most likely to prevent theft, loss, damage or misuse of assets.

3. High-Risk Items

Each Elected Official and Department Head shall maintain control over property considered High-Risk Items. These items include, but are not limited to, weapons, electronics, tools and computer accessories. Each Elected official and Department Head should track such items and shall establish internal procedures.

4. Transfer of Property

The Purchasing Agent is authorized by Commissioners Court to transfer supplies, materials and equipment among the various county departments. The transfer or trade of any equipment from one department to another must be handled through the Purchasing Department. In the event an item is no longer needed, the department shall notify the Purchasing Department. The Purchasing Department will then take appropriate action.

5. Disposal of Surplus or Salvage Property

The Purchasing Agent may request that the Commissioners Court declare property "surplus" (in excess of needs, but still useful) or "salvage" (valueless property). Surplus or salvage property may be sold by competitive bid or auction. County employees will be given the same opportunity as other persons to bid on and purchase surplus properties at a public sale or auction. No Purchasing Department employee nor his or her immediate family may bid on property sold through a Sealed Bid Sale. An internet auction site may be contracted to conduct online auctions to sell surplus or salvage county property. Property may be offered as a trade-in for new property of the same general type. The county has the right to reject any offer to purchase if it is in the best interest of the county. Commissioners Court may order the property to be destroyed or disposed if no bids are received from a public auction or sealed bid sale.