

Chapter 32. Purchasing & Assets¹

Contents:

Subchapter A. Introduction 5

- 32.001 Definitions 5
- 32.002 Background 12
- 32.003 Mission 13
- 32.004 Goals of Public Procurement 13
- 32.005 Centralized Procurement 14
- 32.006 Other Duties of the Purchasing Agent 14
- [32.007-32.010 Reserved for Expansion] 14

Subchapter B. Purchasing Authority and Policy 14

- 32.011 Purchasing Law 14
- 32.012 Purchasing Policy 15
- 32.013 Application 15
- 32.014 Effective Date 15
- 32.015 Precedents and Interpretation 15
- 32.016 Additional Resources 16
- [32.017-32.020 Reserved for Expansion] 16

Subchapter C. Travis County Purchasing Code of Ethics 16

- 32.021 Policy 16
- 32.022 Responsibility to County 17
- 32.023 Conflict of Interest 17
- 32.024 Reserved for Expansion 17
- 32.025 Perception 17
- 32.026 Gratuities 17
- 32.027 Confidential Information 18
- 32.028 Confidentiality Memorandum 18
- 32.029 Example Travis County Confidentiality Memorandum 19
- [32.030-32.032 Reserved for Expansion] 20

Subchapter D. Purchasing Agent Authority and Responsibilities 20

- 32.033 Appointment 20
- 32.034 Statutory Authority and Duties 20
- 32.035 Additional Responsibilities 21
- [32.036-32.040 Reserved for Expansion] 21

Subchapter E. Purchasing Process, Policy, Roles and Responsibilities 21

- 32.041 Purchasing Process 21
- 32.042 Steps in Purchasing Process 22
- 32.043 User Don'ts and Do's 22
- 32.044 Roles and Responsibilities 24
- 32.045 Purchasing Process Roles and Responsibilities 24
- [32.046-32.050 Reserved for Expansion] 26

Subchapter F. Historically Underutilized Business (HUB) Program 26

- 32.051 Policy 26
- 32.052 HUB Goals 26

¹ Chapter 32 was replaced by Commissioners Court on April 26, 2016, Item 19. Subchapter X was added November 8, 2016, Item 16.

- 32.053 Bidders List 27
- 32.054 Eligibility 27
- 32.055 Outreach Efforts 27
- 32.056 Good Faith Effort for County Projects 27
- 32.057 Reporting 28
- 32.058 Vendor Tracking System 28
- 32.059 Disadvantaged Business Enterprise 28
- 32.060 Implementation of Economic Development Agreements 29
- [32.061-32.064 Reserved for Expansion] 29

Subchapter G. Other General Purchasing Policies 29

- 32.065 Mandated Contract Terms and Conditions 29
- 32.066 Funds Verification 29
- 32.067 Facilities and Wireless Review of Shopping Carts 30
- 32.068 ITS Review of Shopping Carts and Hardware/Software Demonstrations 30
- 32.069 Records Management Review 31
- 32.070 Facilities Management Review 31
- 32.071 Environmental Stewardship 32
- 32.072 Risk Management Coverage 33
- 32.073 After Hours Emergency Purchases 33
- 32.074 Interlocal Agreements 33
- 32.075 Bonding Requirement 33
- 32.076 Best Value 35
- 32.077 Consideration of Safety Records 35
- 32.078 Electronic Transactions 36
- 32.079 Vendor List 36
- 32.080 Prepayments and Advance Payments 37
- 32.081 Ethical Procurement 37
- 32.082 Grant Funded Purchases 37
- 32.083 Foreign Vendors 38
- 32.084 Reimbursement of County Employees for Certain Purchases 38
- 32.085 Purchases of Applications for Smart Devices 38
- 32.086 Local Business Preference 38
- 32.087 Contracts with Bidders from Other States 40
- 32.088 Suspended and Debarred Vendor Verification 40
- 32.089 Taxes Owed to the County 41
- 32.090 Compliance Verification 41
- 32.091 Public Information Act Requests 41
- 32.092 HIPAA Compliance 41
- 32.093 Disclosure of Interested Parties 43
- 32.094 Conflict of Interest Disclosure 43
- [32.095-32.119 Reserved for Expansion] 45

Subchapter H. The Shopping Cart Process 45

- 32.120 Definition 45
- 32.121 Purpose 45
- 32.122 Procedure 46
- 32.123 Types of Shopping Carts 46
- 32.124 Shopping Cart Checklist 48
- [32.125-32.129 Reserved for Expansion] 49

Subchapter I. Open Market (Non-Contract) Purchases Under \$50,000 49

- 32.130 Policy 49
- 32.131 Considerations 49
- 32.132 Procedure 49
- 32.133 Violations 50
- [32.134-32.135 Reserved for Expansion] 50

Subchapter J. Specifications 50

- 32.136 Definition 50
- 32.137 Use of Consultant Services 50

- 32.138 Purpose of Specifications 50
- 32.139 Preparation of Specifications 51
- 32.140 Characteristics of an Effective Specification 51
- 32.141 Types of Specifications 52
- [32.142-32.144 Reserved for Expansion] 53

Subchapter K. Competitively Solicited Purchases Exceeding \$50,000 53

- 32.145 Definitions and Use 53
- 32.146 Purpose of Competitive Bidding 53
- 32.147 Procedures 55
- 32.148 Defining the Need 55
- 32.149 Ongoing Maintenance 55
- 32.150 Written Memorandum 56
- 32.151 Bidders List 56
- 32.152 Notice 56
- 32.153 Special Considerations 57
- 32.154 Amendment of Solicitation 57
- 32.155 Pre-Response Conference 58
- 32.156 Receipt of Responses to Competitive Solicitations 58
- 32.157 Public Opening of Solicitations 58
- 32.158 Confidentiality Memorandum (RFP) 59
- 32.160 Negotiations 60
- 32.161 Contract Award 61
- 32.162 Term Contracts 62
- 32.163 Procurement Methods 62
- [32.164-32.170 Reserved for Expansion] 63

Subchapter L. Reserved for Reverse Auction Procedures 63

- [32.171-32.225 Reserved for Expansion] 63

Subchapter M. State Purchasing Programs 63

- 32.226 Background and Statutory Authority 63
- 32.227 Official Representative 64
- 32.228 Contract Award 64
- 32.229 State Term Contract Purchases 64
- 32.230 Texas Multiple Award Schedules (TXMAS) Purchases 65
- 32.231 Department of Information Resources (DIR) Purchases 65
- [32.232-32.240 Reserved for Expansion] 67

Subchapter N. Cooperative Purchasing Agreements 67

- 32.241 Background and Statutory Authority 67
- 32.242 Policy 67
- 32.243 Definitions 67
- 32.244 Official Representative 67
- 32.245 Procedure 68
- 32.246 Contract Award 68
- 32.247 Federal Supply Schedules 68
- [32.248-32.250 Reserved for Expansion] 69

Subchapter O. Procurement of Professional Services 69

- 32.251 Background and Statutory Authority 69
- 32.252 Professional Services Procurement Act 69
- 32.253 Architectural, Engineering and Land Surveying Services 74
- 32.254 Other Professional Services 75
- 32.255 Disclosure of Former Employees 81
- [32.256-32.259 Reserved for Expansion] 81

Subchapter P. Construction Procurement 81

- 32.260 Purchasing Statutes 81
- 32.261 Purchase Requisition 82

- 32.262 SAP Use 82
- 32.263 Solicitation Notice 82
- 32.264 Consideration of Safety Records 83
- 32.265 Bonding 84
- 32.266 Pre-Bid (or Response Equivalent) Conference 86
- 32.267 Receipt of Competitive Solicitation Responses 86
- 32.268 Public Opening of Solicitation Responses 87
- 32.269 Evaluation of Responses 88
- 32.271 Contract Award 89
- 32.272 Pre-Construction Conference 90
- 32.273 Contract Administration 91
- 32.274 Change Orders 92
- 32.275 Close Out Procedures 93
- [32.276-32.280 Reserved for Expansion] 94

Subchapter Q. Exemptions to the Competitive Procurement Process 94

- 32.281 Purchasing Act 94
- 32.282 Public Finance Act 95
- 32.283 Policy 95
- 32.284 Procedure 95
- 32.285 Emergency 96
- 32.286 Sole Source Goods and Services 96
- 32.287 Food Purchases 96
- 32.288 Real Property 97
- 32.289 Duration of Exemption 98
- [32.290-32.294 Reserved for Expansion] 98

Subchapter R. Equipment Leases and Maintenance Contracts and Their Renewals 98

- 32.295 Policy 98
- 32.296 Statutory Limits 98
- 32.297 Procedure 98
- 32.298 Technical Department Review 99
- [32.299-32.304 Reserved for Expansion] 99

Subchapter S. Receipt of Goods and Payment 99

- 32.305 Policy 99
- 32.306 Verify Order 99
- 32.307 Damaged Goods 100
- 32.308 Documentation 100
- [32.309-32.314 Reserved for Expansion] 101

Subchapter T. Contract Modifications 101

- 32.315 Policy 101
- 32.316 Unilateral Changes 101
- [32.317-32.320 Reserved for Expansion] 102

Subchapter U. Post-Award Contract Administration 102

- 32.321 Policy 102
- 32.322 Post-Award Conference 102
- 32.323 Monitoring Performance 102
- 32.324 Monitoring by Third Party 102
- 32.325 Contract Management (User Department staff) 103
- 32.326 Contract Administration (Purchasing Office Staff) 103
- 32.328 Dispute Resolution 104
- 32.329 Termination for Convenience 105
- 32.330 Termination for Default (or Cause) 105
- 32.331 Contract File 105
- [32.332-32.335 Reserved for Expansion] 106

Subchapter V. Professional Development and Certification 106

32.336	Policy 106
32.337	Key Objectives 106
32.338	Training 107
32.339	Certification 107
[32.340-32.345 Reserved for Expansion]	108

Subchapter W. Assets 108

32.346	Introduction 108
32.347	Definitions 108
32.348	Authority 109
32.349	Protection of Property 109
32.350	Asset Definitions and Types 110
32.351	User Department Responsibilities 110
32.352	Purchasing Office Responsibilities 113
[32.353-32.360 Reserved for Expansion]	119

Subchapter X. Sale or Lease of Advertising Space 119

32.361	Authority 119
32.362	Intent of Subchapter 119
32.363	Application 119
32.364	Effective Date 119
32.365	Definitions 119
32.366	Federal Regulatory Restrictions on Use of .gov Internet Domain Website 120
32.367	Responsibility for Identification of Potential Advertising Space 120
32.368	Court Determination of Appropriateness of Space for Advertising 121
32.369	Required Contract Provisions 121
32.370	Notice of Intent to Sell or Lease Advertising Space 123
32.371	Development of Contracts for Sale or Lease of Advertising Space 123
[32.372-32.380 Reserved for Expansion]	123

Subchapter Y. Procurement Cards 124

32.381	Purpose of Procurement Cards (P-cards) 124
32.382	Definitions 124
32.383	Applying for a P-Card 125
32.384	Requirements for Purchasing with a P-card 126
32.385	P-card Returns 128
32.386	P-card Holder Recordkeeping 129
32.387	Review of Monthly P-Card Statement 129
32.388	Monthly Statement Summaries 131
32.389	1099 Calendar Year Report 131
32.390	Foreign Vendor 1042 Reporting 131
32.391	Card Security 131
32.392	Cardholder Separation from County 132
32.393	P-Card Program Enrollment Form 134
32.394	Employee P-Card Agreement 135
32.395	Dispute Report 136

Subchapter A. Introduction

32.001 Definitions

For the purposes of this chapter, the following words have these meanings:

- (1) Advertisement means a public notice in a newspaper of general circulation containing information about a solicitation in compliance with legal requirements.
- (2) Alternate Delivery Method means a method of procuring construction services other than “traditional” competitive bidding. Methods include competitive

sealed proposals, design-build, construction manager (either at risk or as agent), and job order.

- (3) Amendment/Addendum means a document used to change the provisions of a Solicitation. Addendum is the preferred term in the Construction Industry.
- (4) Annual Term Contract means a recurring contract for goods or services, usually effective for 12 months.
- (5) Asset Manager means the Travis County Asset Manager in the Purchasing Agent's Office.
- (6) Auditor means Travis County Auditor and her designated representatives.
- (7) Best Value means a method of evaluating price that includes an evaluation based on the total life cycle cost of the item or service. Best value is the best and lowest overall life cycle cost proposal taking into consideration various factors depending on what is being procured.
- (8) Bid Bonds means a deposit required of bidders to protect the County if a low bidder withdraws its bid or fails to enter into a contract. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on a US Department of the Treasury's listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.
- (9) Bidder means a vendor that submits a bid, including anyone who acts on behalf of the vendor that submits a bid, such as agents, employees, and representatives.
- (10) Bidders List means an automated list of vendors who stated in writing an interest in submitting bids for particular categories of goods and services.
- (11) Blanket Purchase Order means a purchase order issued without unit pricing, limited to a specific amount. A blanket purchase order is normally used when there is a recurring need for expendable goods, and contains multiple delivery dates over a period of time.
- (12) Centralized Master Bidders List (CMBL) means a list maintained by the Texas Procurement and Support Services Division of the State of Texas containing the names and addresses of prospective bidders.
- (13) Change Order means a document used in construction contracts to change the contract by modifying the specifications, increasing or decreasing the cost, or adjusting the time for performance that changes the goods or services to be delivered.
- (14) Commissioners Court means the Travis County Commissioners Court.
- (15) Competitive Bidding means the process that allows available vendors to compete with each other to provide goods or services.
- (16) Competitive Proposal Process means the process that allows available vendors to compete with each other to provide goods and services and

permits flexibility in product solicitation and negotiation in compliance with Texas Local Government Code, section 262.030.

- (17) Component Purchases means a series of purchases of component parts of goods that are normally purchased as a whole.
- (18) Consultant means a person who provides or proposes to provide advice and counsel in a specialized area.
- (19) Contract means a formal, written agreement executed by the County and a vendor containing the terms and conditions under which goods or services are furnished to the County which commits the County's funds.
- (20) Contractor means a vendor who has been awarded a contract by Travis County.
- (21) County means Travis County.
- (22) County Attorney means the Travis County Attorney or his designated representatives.
- (23) County Clerk means Travis County Clerk or her designated representatives.
- (24) County Executive means any County Executive and any person authorized to act on his or her behalf.
- (25) Cycle time means the time between when a purchase requisition is received in the Purchasing Office and placement of a purchase order with a vendor. Cycle time does not include the time required for delivery or the time it takes for the Purchasing Office to obtain corrections to line item accounts, product category codes, and other necessary information.
- (26) Design-Build Contract means a project delivery method by which the County contracts with a single entity to provide both the design and construction services for the construction, rehabilitation, alteration, or repair of a facility.
- (27) Design Criteria Package means a set of documents that meets the requirements specified in Texas Government Code, Chapter 2269, Subchapter G. The Design Criteria Package must provide sufficient information to permit a design-build firm to prepare a response to a County request for qualifications and to provide any additional information requested.
- (28) Department means all district, County, and precinct offices and subdivisions of them, when the purchases are funded even partially with County funds.
- (29) Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

- (30) Emergency Purchase means an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the County
- (31) Employee means any County or precinct elected official, appointed official, or employee and any district elected official, appointed official or employee when the purchase is funded even partially with County funds or anyone who acts on behalf of any of them.
- (32) Formal Competitive Bidding means the bidding process in compliance with the County Purchasing Act which requires approval by the Commissioners Court.
- (33) Goods means any personal property purchased by the County, including equipment, supplies, material, and component or repair parts.
- (34) High Technology Item means a service, equipment, or good of highly technical nature, including data processing equipment and software; telecommunications, radio, and microwave systems; electronic distributed control systems; and technical services related to those items.
- (35) Historically Underutilized Business (HUB) means a business that has not exceeded the size standards prescribed in Texas Administrative Code, has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who resides in Texas and actively participates in the control, operations and management of the entity's affairs.
- (36) Invitation for Bid (IFB) means the specifications and formal bidding documents requesting pricing for a specified good or service which has been advertised for bid in a newspaper.
- (37) Item means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. This does not include professional services as defined by Texas Government Code, Section 2254.002.
- (38) Lease means a contract for the use of real or personal property for a period of time in return for a specified compensation.
- (39) Lowest Responsible Bid means the offer from a bidder who submits the lowest and best price meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid and includes any related costs to the County in a total cost concept and who has the financial and practical ability to perform the contract and whose past performance indicates the ability to comply with the contract.
- (40) Modification means a document used to change the provisions of a contract.
- (41) Negotiation means a consensual bargaining process in which the County and vendors attempt to reach agreement on differences in desired contract

provisions or a potentially disputed matter for the purpose of reaching an understanding.

- (42) Occupant Department means the department that ultimately uses the finished goods or services when the purchase or construction is completed, which may be different from the User Department.
- (43) Official means any elected or appointed official and any person authorized to act on his or her behalf.
- (44) Other Professional Services means those services usually referred to as a professional service, but not specifically listed in the Professional Services Procurement Act, which requires specialized technical skill and expertise; labor and skill which is predominantly mental or intellectual, including computer programmers, lawyers, and facilitators.
- (45) Payment Bond means a surety bond executed in connection with a contract that secures the payment requirement of a Contractor.
- (46) Performance Bond means a surety bond that provides assurance of a Contractor's performance of a certain contract.
- (47) Pre-Bid/Proposal Conference means a conference conducted by the Purchasing Office for the benefit of those wishing to submit a response for services or supplies required by the County which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.
- (48) Product Category Code means the accounting system classification of goods and services with a unique number assigned to each description.
- (49) Professional Services means Services directly related to professional practices as defined by the Professional Services Procurement Act, including those services within the scope of the practice of accounting; architecture; optometry; medicine; land surveying; and professional engineering.
- (50) Proprietary Information means information provided in responses to solicitations to which vendor claims ownership or exclusive rights and which may be protected from disclosure under the Texas Public Information Act, Texas Government Code, Chapter 552.
- (51) Public Works means constructing, altering, or repairing a public building or carrying out or completing any public work.
- (52) Purchase means any kind of acquisition, including by a lease or revenue contract.
- (53) Purchase Order means an order by the Purchasing Office for the purchase of goods and services written on the County's standard Purchase Order form and which, when accepted by the contractor without qualification within the specified time limit, becomes a contract or an amendment to an existing contract which operates as the vendor's authority to deliver and invoice for goods or services specified, and is the County's commitment to accept the specified goods or services for an agreed-upon price.

- (54) Purchasing Act means Chapter 262, Subchapter C of the Texas Local Government Code, which governs the conduct of purchasing activity for counties.
- (55) Purchasing Agent means a person appointed by the Purchasing Board of Travis County. By statute, acts as the contracting agent of the Commissioners Court and makes contracts on behalf of the County, including: (1) erecting or repairing a County building; (2) supervising the erecting or repairing of a County building; or (3) any other purpose authorized by law and directed by Commissioners Court.
- (56) Purchasing Board means a board composed of three district judges and two County commissioners who are responsible for appointing the Purchasing Agent and approving the office's budget and agent's salary.
- (57) Purchasing Laws means all laws that govern county purchasing including the following:
 - (A) County Purchasing Act (Texas Local Government Code, Chapter 262, subchapter C)
 - (B) Contracting and Delivery Procedures for Construction Projects (Texas Government Code, Chapter 2269)
 - (C) Public Property Finance Act (Texas Local Government Code, Chapter 271, subchapter B)
 - (D) State Contract (Texas Local Government Code, sec. 262.002, and Chapter 271, subchapter D)
 - (E) Texas Council on Purchasing from People with Disabilities (Texas Human Resource Code, Chapter 122)
 - (F) Interlocal Cooperation Contracts (Texas Government Code, Chapter 791)
 - (G) Payment for Goods and Services (Texas Government Code, Chapter 2251)
 - (H) Contracts with Governmental Entities, Non-Residential Bidders (Texas Government Code, Chapter 2252)
 - (I) Public Works Performance and Payment Bonds (Texas Government Code, Chapter 2253)
 - (J) Professional Services Procurement Act (Texas Government Code, Chapter 2254, subchapter A)
 - (K) Prevailing Wage Rate for Construction of Public Works (Texas Government Code, Chapter 2258)
 - (L) Sales tax exemption for governmental entities (Texas Tax Code, section 151.309)
 - (M) Workers' Compensation Compliance (Workers' Compensation Rule 110.110)
 - (N) Uniform Electronic Transaction Act (Texas Business & Commercial Code, Chapter 322)

- (O) Resolution of Certain Contract Claims Against the State (Texas Government Code, Chapter 2260)
- (P) Disclosure of Interested Parties (Texas Government Code, Section 2252.908)
- (Q) Disclosure of Certain Relationships with Local Government Officers (Texas Local Government Code, Chapter 176 as amended by HB 23)
- (58) Purchasing Office means the Office of the Travis County Purchasing Agent and her staff.
- (59) Purchasing Liaisons means the designated purchasing contact within each department/office.
- (60) Request for Information (RFI) means a general request to contractors for information for a potential future solicitation which is used as a research and information gathering tool for preparation of specifications and requirements. Must be issued by the Purchasing Office.
- (61) Request for Proposal (RFP) means a document requesting an offer from vendors, which allows for negotiations after a proposal has been received and before award of the contract for goods and services procured in compliance with Texas Local Government Code, sections 262.0295 and 262.030, and Texas Local Government Code, Chapter 2269.
- (62) Request for Qualifications (RFQ) means a document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act, and Texas Government Code, Chapter 2269.
- (63) Request for Services (RFS) means a document that requests information about qualifications and details of services to be provided and costs for Other Professional Services that are not covered by the Professional Services Procurement Act, but may be exempted from competitive solicitation under the County Purchasing Act.
- (64) Responsive means a vendor who has complied with all material aspects of the solicitation document, including submission of all required documents.
- (65) Responsible means a vendor who has the capability to perform fully and deliver in accordance with the contract requirements based on consideration of past performance, financial capabilities, and business management.
- (66) Reverse Auction means a method for procurement in which the roles of the buyer and the seller are reversed to drive purchase prices down.
- (67) SAP means the Travis County Enterprise Resource Planning system which includes modules for accounting, purchasing and fixed asset management.
- (68) Sealed Bids means the offers in response to an Invitation for Bids that is advertised in a newspaper and submitted to the Purchasing Office in a manner that conceals the price.

- (69) Separate Purchases means acquisitions made in a series of different orders for goods and services that in normal purchasing practices would be purchased in a single order.
- (70) Sequential Purchases means acquisitions made over a period of time that in normal purchasing practices would be made at one time.
- (71) Services means the furnishing of labor by a contractor that includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal or professional services.
- (72) Shopping Cart means an automated request from a user department submitted to the Purchasing Office that authorizes the Purchasing Office to enter into a contract with a vendor to purchase goods or services for the County and authorizes the Auditor to charge the appropriate department budget and which is for internal use and cannot be used by a department to order materials directly from a vendor.
- (73) Sole Source Good or Service means a good or service that can be obtained from only one source that is purchased in compliance with Texas Local Government Code, section 262.024.
- (74) Solicitation means a document, such as an Invitation for Bid, Request for Proposal, Request for Offers, Request for Qualifications, or Reverse Auction issued by the Purchasing Office that contains terms and conditions for a contract to solicit a response from vendors to provide goods or services needed by the County.
- (75) Solicitation Conference means a meeting chaired by purchasing staff, designed to help potential vendors understand the requirements of a solicitation. Also known as a Pre-Bid or Pre-Proposal conference
- (76) Specification means a total description of a good or service to be purchased by the County, and the requirements the vendor must comply with to provide satisfactory performance of the contract and which may include requirements for testing, inspection, acceptance, and preparing any good or service for delivery, or preparing or installing it for use.
- (77) User Department means all County and precinct offices and subdivisions of them, as well as district offices and subdivisions when the purchases are funded even partially with County funds; the department from whose budget line item the contract is paid.
- (78) Vendor means a business entity or individual that seeks to have or has a contract to provide goods or services to the County.

32.002 Background

This chapter provides County offices enough information to make decisions necessary to request the purchase of goods and services needed to perform the functions of their offices effectively.

32.003 Mission

The mission of the Travis County Purchasing Office is to provide an ongoing supply of quality goods and services to all County offices while:

- (1) Ensuring compliance with the County Purchasing Act as well as other state and federal laws applying to County purchasing;
- (2) Providing all vendors, including Historically Underutilized Businesses (HUB), equal access to the competitive process for the acquisition of goods and services by County;
- (3) Accounting for all County assets through an effective fixed asset management system; and
- (4) Protecting the interests of Travis County taxpayers without regard to any undue influence or political pressures.

32.004 Goals of Public Procurement

(a) Public purchasing has several goals, including:

- (1) Purchasing the proper goods and services;
- (2) Obtaining the best possible price for the goods or services, without sacrificing the quality needed;
- (3) Ensuring a continuing supply of goods and services are available where and when needed; and
- (4) Guarding against the misappropriation of County assets that have been acquired through the procurement process.

(b) Public purchasing must also ensure:

- (1) Responsible bidders are given a fair opportunity to compete for the County's business. This can be accomplished by abiding by statutory requirements regarding competitive bids and proposals, and by the County's purchasing policy.
- (2) Public funds are safeguarded. Although the Purchasing Office does not usually designate the types of purchases to be made, it should attempt to see that the best value is received for the public dollar.
- (3) Public spending is not used to enrich elected officials or County employees, or to confer favors. Adoption and implementation of a code of ethics and employee training and awareness of their responsibilities in the public purchasing area accomplish this.
- (4) Historically Underutilized Businesses (minority and women-owned) have an equal opportunity in the contract award process. Travis County achieves this through the implementation of its HUB Program and by requiring all vendors to make a good faith effort to use HUBs whenever possible.

32.005 Centralized Procurement

Travis County Commissioners Court has adopted a centralized procurement function that provides many benefits:

- (1) It allows for the consolidation of smaller purchases by individual departments into larger purchases for the entire County, resulting in lower unit prices and savings;
- (2) Vendors and the business community have a single, central link to the County procurement process to facilitate consistent communication and understanding;
- (3) Purchasing Office personnel accumulate a solid foundation of knowledge and experience about purchasing, marketing trends, prices, and Vendors. This expertise assists Using Departments to save money by better defining their needs. It also promotes a more efficient procurement process; and
- (4) Centralized expertise puts the purchasing processes on a professional footing and inspires public confidence in the actions of the County.

32.006 Other Duties of the Purchasing Agent

In addition, the Purchasing Agent is responsible for:

- (1) Historically Underutilized Business (HUB) Program
- (2) Interlocal Purchasing Agreements and Cooperative Purchasing Agreements
- (3) Fixed Asset and Warehouse Management
- (4) Disposition of Seized and Abandoned Property
- (5) Auctions of Surplus and Salvaged Property

[32.007-32.010 Reserved for Expansion]

Subchapter B. Purchasing Authority and Policy

32.011 Purchasing Law

- (a) The Texas Legislature has enacted purchasing laws. It is the policy of Travis County, acting through its duly appointed Purchasing Agent, to fully comply in all aspects with these laws as they are amended from time to time.
- (b) The Commissioners Court has directed the Purchasing Agent to provide a centralized purchasing structure.
- (c) The Purchasing Office, as well as elected/appointed officials and County executives and employees, will provide equitable access to the County procurement process for all Responsible Vendors. Further, County procurement is conducted in a manner that promotes and fosters public confidence in the integrity of the County procurement process.

32.012 Purchasing Policy

The purpose of County purchasing is to:

- (1) Seek the best quality, lowest-priced and best value goods and services that meet the needs of the County and its employees;
- (2) Provide all Responsible vendors and Contractors, including HUBs, equitable access to service the needs of the County and its personnel through competitive acquisition of goods and services;
- (3) Comply with all federal and state laws that apply to county purchasing and comply with the policies and procedures in this chapter;
- (4) Manage County assets and inventory so that replacement costs are minimized and County can account for all assets; and
- (5) Dispose of all surplus, salvage, seized and abandoned property in a manner that provides the best value to the taxpayers of the County and complies with the law.

32.013 Application

- (a) The Purchasing Act applies to all departments, all County, and precinct officials and employees and all subdivisions of all County, and precinct offices. The Purchasing Agent must purchase or lease all goods and services, including maintenance and repair, for all departments. The Purchasing Agent must perform all purchasing for all officials, County executives, employees, and precinct employees.
- (b) These policies and procedures are adopted by the County Purchasing Agent and approved by the Commissioners Court under the authority of the Texas Local Government Code, Chapter 262.

32.014 Effective Date

This chapter shall become effective upon approval by the Commissioners Court.

32.015 Precedents and Interpretation

- (a) These policies and procedures shall be interpreted liberally to accomplish their purpose.
- (b) If there is any conflict between these policies and procedures and a state law, or a rule adopted under a state law, the stricter of the two provisions prevails.
- (c) The masculine, feminine, and neuter genders shall be interpreted to include the other genders as appropriate. The singular and plural shall be interpreted to include the other number as required.
- (d) Headings and titles at the beginning of the various sections of these policies and procedures have been included only to make it easier to locate the subject matter

covered by that section or subsection and are not to be used in interpreting these policies and procedures.

- (e) If any provision of these policies and procedures or the application of them to any person or circumstances is held invalid, the validity of the remainder of these policies and procedures and the application of them to other persons and circumstances shall not be affected.
- (f) In general, the Purchasing Agent interprets these policies and procedures but the Commissioners Court resolves any question about any interpretation of these policies and procedures when there is a conflict related to an area that is not within the statutory authority of the Purchasing Agent.

32.016 Additional Resources

For additional information, the following are listed as references:

- (1) Comptroller of Public Accounts, State of Texas Cooperative Purchasing Manual www.window.state.tx.us/procurement/prog/coop/coop_manual.pdf
- (2) The State of Texas Contract Management Guide, Version 1.6 www.window.state.tx.us/procurement/pub/contractguide/contract-mgmt-guide-v1.12.pdf

[32.017-32.020 Reserved for Expansion]

Subchapter C. Travis County Purchasing Code of Ethics

32.021 Policy

- (a) It is the policy of Travis County that the following ethical principles govern the conduct of every employee involved, directly or indirectly, in the County procurement process.
- (b) The following is adapted from the American Bar Association's 2000 Model Procurement Code for State and Local Governments:
 - (1) Public employment is a public trust. It is the policy of Travis County to promote the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County. Such policy is implemented by prescribing essential standards of ethical conduct without unnecessary obstacles to entering public service.
 - (2) Public employees must discharge their duties impartially so as to ensure fair competitive access to County procurement by Responsible Contractors. Moreover, public employees should conduct themselves in such a manner that fosters public confidence in the integrity of the Travis County procurement process.

- (3) To achieve the purpose of this chapter, it is essential that those doing business with the Travis County Purchasing Office also observe the ethical standards prescribed in this chapter.

32.022 Responsibility to County

Employees shall avoid activities that compromise or give the perception of compromising the best interests of Travis County. Employees shall not knowingly use confidential proprietary information for actual or anticipated personal gain.

32.023 Conflict of Interest

- (a) Employees shall avoid any activity that would create a conflict between their personal interests and the interest of Travis County. Conflicts exist in any relationship where the County's best interest may be different from the employee's best interests or the best interest of someone associated with the employee. Conflicts of interest include an employee participating in any way in any procurement in which:
 - (1) The employee or any member of the employee's family has a financial interest in the results of the County procurement process;
 - (2) A business or organization in which the employee, or any member of the employee's family, has a financial interest in the results of the County procurement process; or
 - (3) Any other person, business, or organization with whom the employee or a member of the employee's family is negotiating for or has an arrangement concerning prospective employment.
- (b) If a conflict of interest exists, the employee shall notify the Purchasing Agent in writing and remove himself or herself from the County procurement process.

32.024 Reserved for Expansion

32.025 Perception

Employees shall avoid the appearance of unethical or compromising practices in relationships, actions, and communications associated with County procurement.

32.026 Gratuities

Employees shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential contractors that might influence or appear to influence a purchasing decision. Generally, goods or services with a value of \$100 or less in the aggregate from a Vendor during a year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision. If anyone is in doubt about whether a specific transaction complies with this policy, the person should disclose the transaction to the Purchasing Agent for a determination of compliance.

32.027 Confidential Information

Employees shall keep the proprietary information of vendors confidential. Employees shall keep vendor proposal information obtained from a solicitation confidential until after contract award.

32.028 Confidentiality Memorandum

- (a) The Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Office sends this memorandum to evaluation committee members for signature and certification.
- (b) The memorandum contains the following requirements to which the evaluation committee member is expected to adhere during the course of the competitive process and until the Commissioners Court approves an award:
 - (1) All information in the vendor's response is to be kept confidential.
 - (2) No discussion of the proposal is to occur with anyone outside of the proposal evaluation committee members.
 - (3) Proposal responses are not to be reproduced and will be returned to the designated Purchasing Office staff after evaluation is completed.
 - (4) The Purchasing Office is the sole point of communication for any questions from vendors or committee members that arise during the evaluation. All questions and requests for information shall be referred to the Purchasing Office. There must not be any discussions between evaluation committee members and vendors during the evaluation and award process.
 - (5) Evaluation committee members must be familiar with and read the Travis County Purchasing Code of Ethics and agree to comply with its requirements, including reporting any potential conflict of interest, undue influence from vendors, Commissioners Court members, or other County staff, or attempted communications from vendors during the evaluation process.
- (c) Compliance with the requirements outlined in the confidentiality memorandum is crucial. If proprietary information of any vendor is compromised during the procurement process, all proposals may be rejected.

32.029 Example Travis County Confidentiality Memorandum



TRAVIS COUNTY PURCHASING OFFICE
Cyd V. Grimes, C.P.M., CPPO, Purchasing Agent
700 Lavaca, 8th Floor • Austin, Texas 78701 • (512) 854-9700 • Fax (512) 854-9185

MEMORANDUM

TO: Proposal Evaluation Team Member
FROM: Cyd Grimes, County Purchasing Agent
DATE: June 25, 2015
SUBJECT: Request For Proposal, RFP #, Purchase of Services

In accordance with the County Purchasing Act, this project was issued as a competitive proposal, and, therefore, all information contained in the responses is to be kept **CONFIDENTIAL** until an award is approved by Commissioners Court.

Until that time, and due to the confidential nature of these proposals, **no discussion of these proposals shall occur with anyone outside the Proposal Evaluation Committee members.** Proposal documents may not be reproduced for any reason and must be returned to (Buyer's name) after the evaluation is complete.

Certain information about the proposal, such as vendor name, is public information but may only be released by the Purchasing Office. **Please refer all questions or requests for information to the buyer.**

Please note that if any information about these proposals is compromised, it may be cause for rejection of all proposals.

I understand the above information and instructions and agree to not reveal any content of any proposal to anyone outside the evaluation committee membership. I will not discuss the deliberations of the committee with anyone outside the evaluation committee. I will report any vendor contact concerning this evaluation process or any undue influence on my evaluation of proposals to the responsible buyer.

Additionally, I have read the attached "Travis County Purchasing Code of Ethics", extracted from the Travis County Purchasing Policy and Procedures Manual, and agree to conduct myself in accordance with that code of ethics.

Signature of Evaluation Committee Member

Date

Printed Name

Attached: Travis County Purchasing Code of Ethics

[32.030-32.032 Reserved for Expansion]

Subchapter D. Purchasing Agent Authority and Responsibilities

32.033 Appointment

The Commissioners Court and the district judges have created a Purchasing Board to implement a centralized purchasing structure and have given the Purchasing Office that mission. The Purchasing Board, composed of three district judges and two members of the Commissioners Court, appoints the Purchasing Agent for Travis County to a two-year term and approves the budget for the Purchasing Office, including the Purchasing Agent's salary.

32.034 Statutory Authority and Duties

Texas Local Government Code, Chapter 262, Subchapter B outlines the following duties for purchasing agents in general, and the Travis County Purchasing Agent in particular:

- (1) A person appointed under this section must execute a bond in the amount of \$5,000, payable to the County, conditioned on the individual's agreement to faithfully perform the duties of the County purchasing agent.
- (2) The 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 Purchasing Agent may not purchase the supplies, materials, or equipment or make the contract for repairs.
- (3) The Purchasing Agent shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper County officer or department in accordance with the purchase contract.
- (4) A purchase made by the Purchasing Agent shall be paid for by an electronic transfer, check, or warrant drawn by the Auditor on funds in the County treasury in the manner provided by law. The 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 Purchasing Agent or on competitive bid as provided by law.
- (5) On July 1 of each year, the Purchasing Agent shall file with the Auditor and each member of the Purchasing Board an inventory of all property on hand and belonging to the County and each subdivision, officer, and employee. The Auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.
- (6) Subject to Commissioners Court approval, to prevent unnecessary purchases, the Purchasing Agent shall recommend the transfer of County goods that are not needed or used, from one department or employee, to

another department or employee requiring the goods or the use of the goods. The Purchasing Agent shall furnish the Auditor a list of transferred goods.

- (7) Subject to Commissioners Court approval, the Purchasing Agent shall adopt the rules and procedures necessary to implement the Purchasing Agent's duties.
- (8) Rules and procedures adopted by the Purchasing Agent may include rules and procedures for persons to use County purchasing cards to pay for County purchases under the direction and supervision of the Purchasing Agent. Procedures for use of purchasing cards may not avoid the competitive bidding requirements or other requirements of county financial law.

32.035 Additional Responsibilities

In addition to these statutory duties, the Purchasing Agent:

- (1) Develops, implements, and manages the HUB Program for the County;
- (2) Develops, implements, and manages a Fixed Asset Management System;
- (3) Encourages and supports compliance with Texas purchasing laws;
- (4) Works in conjunction with the Auditor and other County officials in the development of efficient financial processes;
- (5) Promotes local business participation in County procurement processes; and
- (6) Provides the business community with a central link to County business.

[32.036-32.040 Reserved for Expansion]

Subchapter E. Purchasing Process, Policy, Roles and Responsibilities

32.041 Purchasing Process

- (a) The general purchasing process as outlined below contains several steps with responsibilities that are often designated by statute. It begins with requirements planning and identification and culminates with the receipt of and payment for goods and services.

32.042 Steps in Purchasing Process

Step	Performed By:
Identify requirements and obtain budget	User Department (Purchasing Office may assist)
Define/finalize requirements	User Department and Purchasing Office
Submit electronic shopping cart outlining requirements to Purchasing	User Department
Solicit, advertise, and generate Purchase Orders and Contracts from shopping cart and send to vendor	Purchasing Office
Deliver goods/service as outlined in contract and submit invoice	Vendor
Receive goods/service and verify completeness against contract	User Department (Purchasing Office may coordinate, especially for assets)
Electronically receive item in financial system and submit original invoice to Auditor's Office	User Department
Match received amount with invoice and audit	County Auditor
Submit payment claim to Commissioners Court for approval	County Auditor
Approve payment of claim	Commissioners Court
Disburse payment of claim	County Treasurer

32.043 User Don'ts and Do's

- (a) Coordination among many County departments and offices is necessary for the procurement process to work smoothly.
- (b) To avoid delays and comply with County policy and state law, User Departments should remember the following:
 - (1) **Do not authorize the purchase of any goods or services.**
 - (2) **Do not purchase any goods or services for your own personal benefit.**
 - (3) **Do not obligate the purchase of goods that are delivered for use on a trial basis.**

- (4) **Do not commit to acquire goods or services without an authorized Purchase Order.** Anyone obligating an expenditure of funds for goods or services before securing a Purchase Order may be held personally responsible for the payment, and may face criminal charges.
- (5) **Do not violate to the County Purchasing Code of Ethics.** Avoid activities and behaviors that are unethical or create a conflict of interest or the perception of a conflict of interest. Examples of activities that are inappropriate include:
 - (A) Soliciting or accepting gratuities of any kind from present Contractors or potential Contractors which might influence or appear to influence a purchasing decision;
 - (B) Failing to disclose in writing to the Purchasing Agent a conflict of interest and not removing yourself from the procurement process when there is a conflict; and
 - (C) Disclosing confidential proprietary information from solicitations to other vendors or using the information for personal gain.
- (6) **Do not use purchasing strategies that violate the law to avoid competition.** Strategies that are prohibited by law include:
 - (A) Purchasing a series of component parts that would normally be purchased as a whole (component purchases);
 - (B) Purchasing items in a series of separate purchases that normally would be purchased as a single purchase (separate purchases); and
 - (C) Purchasing items over a period of time, that normally would be done as one purchase (sequential purchases).
- (7) **Do not violate or authorize someone else to violate the County Purchasing Act.** The following persons commit the following criminal offenses and each act in violation of the law is a separate offense:
 - (A) Any person who knowingly violates or authorizes someone else to violate the Purchasing Act (Class C misdemeanor);
 - (B) Any County or precinct person who fails to use the Purchasing Agent for purchases, including an agent or employee of the County or of a department of the County (Class B misdemeanor); and
 - (C) A County officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Texas Local Government Code, Section 262.023 (Class B misdemeanor).
- (8) **Do ensure funding is available before submitting a shopping cart.** The law does not allow expenditures that exceed budgets. Purchasing does not process a shopping cart for which there is not adequate funding.
- (9) **Do plan purchases to minimize the use of emergency and expedited purchases.** Rush purchases are generally more expensive and they may delay other purchases. Vendors may attempt to charge premium prices for

goods and services when there is insufficient time allowed to explore alternative sources or options.

- (10) **Do plan purchases to allow sufficient time to process shopping carts.**
 - (A) The Purchasing Office is committed to processing all shopping carts within a reasonable amount of time.
 - (B) In general, User Departments should allow 2–4 weeks for all non-contract purchases under \$50,000 and 6–8 weeks on all purchases over \$50,000 that are not covered by an existing contract.
 - (C) Contract shopping carts are generally processed within one day of receipt.
- (11) **Do ensure that purchasing policies and procedures are understood before ordering.** Departments must ensure that all employees responsible for submitting department shopping carts (“Purchasing Liaisons”) have read and understand this chapter. Departments should also ensure that Purchasing Liaisons attend any training provided by the Purchasing Office.
- (12) **Do coordinate with Purchasing on receipt of goods and services.** Since the County does not have centralized receiving, each department is responsible for individually receiving goods and services. Departments should contact the individual listed as the buyer on the purchase order to make Purchasing aware of vendor performance issues such as shortages, late delivery, or damaged merchandise. If the item received is an asset that must be tracked and reported, departments should contact the Asset Manager to coordinate tagging.

32.044 Roles and Responsibilities

There are specific roles and responsibilities for both User Departments and the Purchasing Office during the competitive procurement process. They protect the integrity of the process and provide fair and equal access to all vendors seeking to do business with Travis County.

32.045 Purchasing Process Roles and Responsibilities

Process	User Department Role/Responsibility	Purchasing Office Role/Responsibility
Requirements Definition/ Specification Development	<ol style="list-style-type: none"> 1. Identifies what is needed, when it is needed, the quantity needed and where it is needed and works with Purchasing Office to document need in writing a specification 2. Ensures funding (budget) is available to support need 3. Sends specification and shopping cart or Funds Reservation to Purchasing Office 4. Works with Purchasing Office to develop evaluation criteria/ formats (as applicable) 	<ol style="list-style-type: none"> 1. Consults with User Department in development of specifications and procurement process to be used 2. Reviews specification to ensure that it is descriptive and specific but does not prevent competition among comparable goods 3. Works with User Department to develop evaluation criteria/formats (as applicable) 4. Prepares agenda request for Commissioners Court (if applicable)

Process	User Department Role/Responsibility	Purchasing Office Role/Responsibility
Solicitation	<ol style="list-style-type: none"> 1. Reviews solicitation documents before issuance to ensure User Department needs are met 2. Provides Purchasing Office with a list of potential vendors that can meet the solicitation requirements 3. Provides technical clarifications to Purchasing Office if vendor questions arise 4. Supports pre-solicitation conferences (as applicable) 	<ol style="list-style-type: none"> 1. Develops solicitation documents based on specification and sends to User Department for review before final issuance 2. Issues solicitation to vendors registered in BidSync (and those identified by user department) 3. Advertises solicitation in accordance with state law 4. Conducts pre-solicitation conferences (as applicable) 5. Provides answers or clarifications to vendors before solicitation closes 6. Receives and logs vendor responses 7. Prepares responses for evaluation and send to User Department
Evaluation and Negotiation (as applicable)	<ol style="list-style-type: none"> 1. Evaluators from User Department sign confidentiality memorandum and send to Purchasing Office (as applicable) 2. Evaluates response based on established evaluation criteria 3. Completes evaluation and submit recommendation to Purchasing Office 4. Works with Purchasing Office to develop negotiation strategy (as applicable) 5. Participates as member of negotiating team to negotiate Best and Final Offers (BAFOs) (as applicable) 6. Works with Purchasing Office to develop final recommendation for award 7. Provides memorandum to Purchasing Office to support contract award agenda development 	<ol style="list-style-type: none"> 1. Issues confidentiality memorandum to all evaluators before evaluation commences (as applicable) 2. Supervises evaluation process to ensure consistent and fair application of evaluation criteria 3. Acts as point of contact for evaluator requests and communications to vendors for additional information 4. Compiles individual evaluation results and works with users to develop recommendation for award and prepares contract award agenda item for Commissioners Court or 5. Works with User Department to develop negotiation strategy (as applicable) 6. Leads negotiating team to negotiate BAFOs (if applicable) 7. Receives Best and Final Offer (BAFO) and develops final recommendation for award (if applicable) and 8. Prepares contract award agenda request for Commissioners Court
Contract Modifications	<ol style="list-style-type: none"> 1. Request modifications in writing to Purchasing Office 2. Reviews draft and final modification to ensure it meets User Department needs 	<ol style="list-style-type: none"> 1. Evaluates modification request and works with user department to develop modifications 2. Coordinates with vendor and user department to develop draft modifications 3. Works with County Attorney to review and finalize modifications 4. Obtains appropriate signatures (vendor, attorney, etc.) 5. Either Purchasing Agent approves modifications or staff develops Commissioners Court agenda request for approval depending on type and amount of modification
Contract Performance Monitoring	<ol style="list-style-type: none"> 1. Receives copy of contract and monitors vendor performance and delivery 2. Notifies Purchasing Office of non-performance and provides written documentation outlining details of non-performance (dates, description of problem, etc.) 3. Works with Purchasing Office to develop acceptable corrective actions (as applicable) 	<ol style="list-style-type: none"> 1. Maintains complete contract file with supporting documentation during term of contract 2. Works with vendor to resolve performance issues as identified by User Department 3. Develops corrective actions and timetables for completion to resolve performance issues and documents in contract file (as applicable) 4. Works with User Department and County Attorney to terminate contract when necessary because of non-performance 5. Prepares contract termination agenda request for Commissioners Court action (if required)

[32.046-32.050 Reserved for Expansion]

Subchapter F. Historically Underutilized Business (HUB) Program

32.051 Policy

- (a) The policy of the Purchasing Office is to ensure a good faith effort is made to assist certified HUB vendors in receiving contracts in accordance with the HUB Program policies and the Minority and Woman-Owned Business (M/WBE) goals adopted by the Commissioners Court.
- (b) A Historically Underutilized Business is a for-profit entity that has not exceeded the size standards prescribed by Texas Administrative Code, has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

32.052 HUB Goals

- (a) The HUB Program policies and Minority and Woman-Owned Business goals shall be applicable to the eligible procurement dollars spent in the following areas:
 - (1) Purchase of supplies, materials, products, services, and equipment
 - (2) Maintenance or service of County assets and property
 - (3) Contracts for professional and non-professional services
 - (4) Contracts for commodities, equipment, supplies or materials
 - (5) Contracts for repair or alteration of real property
 - (6) Contracts for the construction of real property
 - (7) Contracts for the repair or construction of roads, bridges, or other related structures and surfaces

Travis County HUB Goals	Construction	Commodities	Services	Professional Services
African-American	1.7%	0.3%	2.5%	1.9%
Hispanic	9.7%	2.5%	9.9%	9.0%
Native/Asian American	2.3%	0.7%	1.7%	4.9%
WBE	13.8%	6.2%	15.0%	15.8%
MBE	13.7%	3.5%	14.1%	15.8%

- (b) Each buyer shall, to the maximum extent practical, ensure the HUB goals are met through the award of purchase orders and contracts, in each area listed above, to certified HUBs. This is achieved through a systematic approach of soliciting quotes, bids, and proposals from certified HUBs.

32.053 Bidders List

The Purchasing Office uses BidSync, a third party vendor, to maintain the Bidders List. All vendors are encouraged to register on the Bidders List, and those registered within a specific commodity and sub-commodity category are solicited. HUB vendors are encouraged to register with BidSync so they are included in solicitations within the commodity code(s) they select.

32.054 Eligibility

Travis County does not certify HUB vendors. However, Travis County recognizes certifications from the State of Texas, City of Austin, and the Texas Unified Certification Program. The Purchasing Office may review the certification status of any vendor registering to do business with the County. The vendor must hold a current valid certification from one of these entities to be counted as a HUB.

32.055 Outreach Efforts

- (a) Outreach activities help educate the business community on the logistics of doing business with Travis County.
- (b) The marketing and outreach programs entail:
 - (1) Providing HUB Program requirements at pre-solicitation conferences.
 - (2) Conducting workshops and seminars on the HUB Program and how it can help the HUB entrepreneur be an active participant in the Travis County procurement process,
 - (3) Identifying certifying agencies accepted by Travis County; and
 - (4) Providing overall assistance to HUBs in various areas as required, within the limits of the Purchasing Act.

32.056 Good Faith Effort for County Projects

- (a) Contractors who are awarded contracts with the County are required to make a good faith effort to subcontract with HUBs. This includes professional services associated with the County projects.
- (b) The prime contractor shall comply with the following criteria:
 - (1) Divide the contract work into the smallest feasible portions to allow for maximum HUB subcontractor participation, consistent with standard and prudent industry practices.
 - (2) Notify HUBs, in writing, of work that the prime contractor plans to subcontract, allowing sufficient time for effective participation. The notification shall include:
 - (A) Adequate information about the project and intended subcontracting work (i.e., plans and specifications, scope of work).
 - (B) Bonding and insurance requirements of HUB subcontractor

- (C) A point of contact within the prime contractor's organization that can answer any questions a HUB may have about the project.
 - (3) Provide written notice to the Purchasing Agent or HUB Coordinator if the prime contractor is unable to meet the required goal for HUB subcontractor participation, and explain why the goal was not met.
 - (4) Negotiate in good faith with interested HUBs and not reject bids from HUBs that qualify as lowest, responsive and responsible bidders.
 - (5) Use the services of minority or women trade organizations or development centers to disseminate the subcontracting opportunities to their membership.
 - (6) Communicate to the Purchasing Agent when no HUB participation is achieved and include reasons.
 - (7) Obtain pre-approval from the Purchasing Agent or the HUB Coordinator of all changes involving certified HUB subcontractors. Modifications to the HUB subcontractor participation plan are permitted only after award of the bid and solely with the prior written approval of the Purchasing Office.
- (c) The HUB Coordinator provides a list of certified HUBs, upon request, to any prime contractor experiencing difficulty locating certified HUBs to fulfill its subcontracting goals.

32.057 Reporting

Prime contractors report all payments to subcontractors to the Purchasing Office. Payments made to all subcontractors are tracked on a monthly basis. A semi-annual report, including information on contracts awarded to HUBs and payments made to those contractors and subcontractors is provided to the Commissioners Court.

32.058 Vendor Tracking System

The Vendor Tracking System is used to route and verify subcontracting payments made to certified HUBs for any subcontracting tier-level, specifically for construction and professional services contracts.

32.059 Disadvantaged Business Enterprise

- (a) The Disadvantaged Business Enterprise (DBE) program was created to provide a level playing field for small, minority, and woman-owned companies wanting to do business with the Texas Department of Transportation (TxDOT) and other agencies receiving federal funds from the U.S. Department of Transportation (USDOT). As a sub-recipient of federal funds from the Federal Highway Administration through TxDOT for the design and construction of various public works projects, the County was required to implement a federally approved DBE Program. Through a Memorandum of Understanding (MOU), the County officially adopted TxDOT's DBE Program in 2007. These projects have specific DBE participation goals.

- (b) Federal law mandates that all local governments or entities that receive USDOT funds from non-conventionally let projects sign a MOU with TxDOT allowing them to adopt TxDOT's federally approved DBE Program and comply with the Federal Regulations including 49 Code of Federal Regulations Part 26.

32.060 Implementation of Economic Development Agreements

If the Commissioners Court enters into an economic development agreement that includes compliance with the County's HUB Program requirements or the City of Austin's Minority Business Enterprise (MBE)/Woman-Owned Business Enterprise (WBE) Program requirements, the County's HUB coordinator assists the company with implementation and reporting under these programs.

[32.061-32.064 Reserved for Expansion]

Subchapter G. Other General Purchasing Policies

32.065 Mandated Contract Terms and Conditions

- (a) Tax Delinquency. The Commissioners Court directs the Purchasing Agent to include a provision in County contracts that allows the County to pay the Travis County Tax Assessor-Collector directly any sums due as a result of tax delinquencies by any Contractor from sums due to the Contractor instead of paying the Contractor.
- (b) Dispute Resolution. A Dispute Resolution Clause is included in all County contracts, except Right Of Way contracts and contracts with state and federal agencies.
- (c) Signatures. All purchasing contracts must have a place for the Purchasing Agent, the County Auditor, and the County Attorney to sign to indicate that the contract has been reviewed. The Purchasing Agent reviews the contract for compliance with purchasing procedures. The County Auditor verifies that there are funds available for the contract. The County Attorney reviews the contract for compliance with the law and Commissioners Court policies.
- (d) Provisions mandated by other governmental bodies. Purchasing contracts include provisions applicable to the specific contract that are required by applicable federal laws and regulations, applicable state laws and policies of state agencies, state and federal funding sources as a condition of their grants, and other county policies. Examples of these include the anti-discrimination language mandated by TxDOT, the HIPAA requirements, certification regarding debarment from federal contracts, Conflict of Interest Disclosure, delayed payment with outstanding debt, insurance requirements, etc.

32.066 Funds Verification

- (a) According to Texas Local Government Code, section 111.093, the County Auditor shall:

- (1) Charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriate account, and
 - (2) Certify the budget contains an ample provision for the obligations and that funds are or will be available to pay each obligation when due.
- (b) The amount allocated in the budget may not be used for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the obligation is canceled in writing by the Commissioners Court.

32.067 Facilities and Wireless Review of Shopping Carts

- (a) Facilities Management Department Security Division
- (1) Facilities Management reviews all purchase requests made by departments for goods and services to provide physical security. These may include professional security consulting and design; monitoring and access control systems, security barriers, surveillance systems, intercoms and emergency stations; and duress alarm and critical event notification systems. Sheriff's Office purchases of these items are manually approved without review by FMD because FMD does not have control of these purchases. These do not include any purchases for information technology security goods and services, vehicle components, or mechanical locks. This procedure is to ensure compatibility and standardization.
 - (2) Facilities Management may provide the Purchasing Agent with a list of goods and services that have been pre-approved and need no additional review. To purchase other physical security items, the User Department must obtain Facilities Management approval.
- (b) Wireless Communication Committee
- (1) The Purchasing Office shall not process any shopping carts for County wireless communications equipment without recommendations from the Wireless Communication Committee (WCC) and, if applicable, from the Emergency and Wireless Communication Coordinating Board.
 - (2) The Purchasing Office shall not process a purchase order for airtime unless it has received the written WCC recommendation.

32.068 ITS Review of Shopping Carts and Hardware/Software Demonstrations

- (a) In accordance with Travis County Code Chapter 35, Information Technology and Systems, this section 32.068 applies to all Information Systems managed by the Chief Information Officer. It does not apply to Information Systems solely managed by an Elected/Appointed Official and outside of the Commissioners Court IT infrastructure unless that Elected/Appointed Official adopts the subchapter in writing.
- (1) Before a department may request an Information Systems procurement, whether through a specific budget request during the budget's formulation or mid-year, the department will prepare an ITS Assessment Request (<http://traviscentral/its/about/assessment-request-form/view/form>) so that

Travis County ITS can review the proposed procurement for conformity to the Standards Document created under Travis County Code section 35.006. ITS will review the request and provide its assessment within a reasonable time proportional to the size and urgency of the procurement as determined by ITS, typically within 3 to 5 days but not later than one month following the timely receipt of information from user departments. If ITS does not concur with the procurement it must fully document its reasons. The requesting department may challenge ITS's objection by appealing to the Commissioners Court to directly approve the department's Information Systems procurement.

- (2) The requesting department will notify the Planning and Budget Office and the Purchasing Office and provide the assessment to those departments. The department will attach the assessment to the budget request and related purchase request to document that the assessment was completed as required under this section.
- (3) During the shopping cart process, ITS will review a request to confirm that the requesting department has a satisfactorily completed assessment accompanying it and will forward the shopping cart to the next level of approval in SAP. Purchasing may not approve a requesting department's Information Systems procurement until ITS has given affirmative approval as required under this subsection, unless the Commissioners Court has directly approved the Information Systems procurement.

- (b) Computer Hardware/Software Demonstrations. The Purchasing Office may arrange for any demonstration or trial use of computer hardware, software, or other technical products and services. A County department shall not ever install or implement any trial or evaluation technical system or software on a County production network that has any potential to adversely affect the performance, security, or stability of any County resources. If a County department wishes to install or implement any trial or evaluation technical system or software on a County production network, the department shall coordinate the installation or trial with ITS and Purchasing.

32.069 Records Management Review

Before purchase, the Records Management and Communications Resources Department reviews requests of record storage equipment (filing cabinets, shelving, etc.), filing supplies (file folders, filing systems), microfilm and micrographic equipment and other emerging record storage technologies. This review is to ensure compatibility and standardization.

32.070 Facilities Management Review

When new equipment is being acquired, the Facilities Management Department provides a statement about whether adequate space and other facilities resources necessary for the proper operation of the equipment are available in a place accessible to the department requesting the equipment.

32.071 Environmental Stewardship

- (a) Departments are encouraged to spend a minimum of 8% of annual purchasing budgets for environmentally preferable products which achieve conservation benefits. Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared to other products and services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.
- (b) The purchase and use of products and services can have a profound impact on the environment. The Purchasing Office recognizes the positive impact that it can make on the environment through purchasing decisions. It is the intent of the Purchasing Office to integrate environmental considerations into every aspect of acquisition. Although the environment may not be the core of the Purchasing Office's professional mission, the integration of these factors will result in economic, health, and environmental gains that will further our goals.
- (c) In this chapter, recycling means the processing of used materials into new products to save resources and energy, and the collection, storage and transportation of those materials from the initial user. Examples of recycled products include remanufactured toner cartridges, re-refined motor oil, and recycled content paper.
- (d) The Purchasing Office:
 - (1) Seeks to reduce the environmental damages associated with purchases by increasing acquisition of environmentally preferable products and services to the extent feasible, consistent with price, performance, availability, and safety considerations;
 - (2) Takes environmental factors into account as early as possible in the planning and decision-making process;
 - (3) Shares responsibility for environmentally preferable purchasing with User Departments;
 - (4) Provides User Departments with information to facilitate their purchase of designated products that are reputed to perform well;
 - (5) Revises minimum content standards as necessary to ensure that designated products contain the maximum practical amount of recovered material and are consistent with guidelines and regulations promulgated by the United States Environmental Protection Agency and other federal and state agencies;
 - (6) Ensures that environmentally preferable products are designated whenever practicable;
 - (7) Encourages vendors to give consideration to recycled boxes, water soluble peanuts, and other products that replace bubble wrap and petroleum based peanuts which are harmful to the environment; and
 - (8) Considers environmental factors in selecting products, including life cycle analysis of pollutant releases, waste generation, recycled content, energy

consumption, depletion of natural resources, and potential impact on human health and the environment.

- (e) Contractors performing services for the County are required to comply with all applicable waste management laws. Requirements of the Waste Management Program of the Travis County Transportation and Natural Resources Department which are not specifically required by law are incorporated into service contracts and commodities specifications whenever this inclusion meets the program feasibility criteria.

32.072 Risk Management Coverage

When User Departments sustain loss or damage to goods or buildings, and funding for replacement or repair is coordinated through the County Risk Management program, the actual purchase is processed by the Purchasing Office. The affected User Department should coordinate with the Asset Manager so that inventory files are updated appropriately.

32.073 After Hours Emergency Purchases

- (a) Each User Department must have written internal procedures for emergency purchases less than \$50,000 that occur after regular work hours. Those procedures must be approved in advance by the Purchasing Agent.
- (b) Each internal User Department's procedures should require that department employee's contact their financial officer or other designated person for approval. On the first working day after the purchase, the User Department must enter a shopping cart and provide written documentation to the Purchasing Agent. If the Purchasing Agent has not approved procedures for emergency purchases for a department, the User Department must wait until the next working day to make the purchase.

32.074 Interlocal Agreements

For each interlocal agreement that has been approved by Commissioners Court to purchase goods or services, the Purchasing Agent will assign a number to that agreement and enter it into SAP for tracking and payment purposes. Previously-approved interlocal agreements may be added to SAP on request. The Purchasing Office will add revenue-generating interlocal agreements to SAP to aid in tracking these types of interlocal agreements.

32.075 Bonding Requirement

- (a) Bonds for construction contracts are discussed later in this chapter. For all other contracts, the Purchasing Agent determines whether a bond of any sort is required.
- (b) Bid bonds are not required for contracts that are less than \$100,000. Bid bonds are not required from any bidder or proponent whose rates are subject to regulation by a state agency.
- (c) Bid bonds may be requested for the construction of public works, or for a contract exceeding \$100,000. The County may require the bidder or proponent to furnish a

good and sufficient bid bond in the amount of 5% of the total contract price. A surety company authorized to do business in Texas must execute the bond.

- (d) If a bid bond is not required by law, the Purchasing Agent may accept a Letter of Credit in place of a bid bond on the following conditions:
 - (1) The County Attorney reviews and acknowledges in writing the legal sufficiency of using a Letter of Credit for the contract,
 - (2) The County Attorney reviews and acknowledges in writing the legal sufficiency of the terms of the proposed Letter of Credit, and
 - (3) The Purchasing Agent has verified the acceptability of the financial condition of the institution providing the Letter of Credit.
- (e) Performance bonds are not usually required for contracts that are less than \$50,000, but may be required at the Purchasing Agent's discretion. Performance Bonds are not required from any bidder or proponent whose rates are subject to regulation by a state agency. If the Purchasing Agent decides that a performance bond is required for a particular contract, the solicitation states that a performance bond in the full amount of the contract price is required and that it must be executed by a surety company authorized to do business in Texas before the Contractor commences work and within 30 days after the notice of contract award is sent to the Contractor.
- (f) If a performance bond is not required by law, the Purchasing Agent may accept a Letter of Credit in place of a performance bond on the following conditions:
 - (1) The County Attorney reviews and acknowledges in writing the legal sufficiency of using a Letter of Credit for this contract,
 - (2) The County Attorney reviews and acknowledges in writing the legal sufficiency of the terms of the proposed Letter of Credit, and
 - (3) The Purchasing Agent has verified the acceptability of the financial condition of the institution providing the Letter of Credit.
- (g) In a contract for the purchase of earth moving, material-handling, road maintenance or construction equipment, the Commissioners Court may require the Contractor to furnish a bond to the County to cover the repurchase costs of the equipment.
- (h) A payment bond shall be required on all public works projects exceeding \$25,000.
- (i) If a payment bond is not required by law, the Purchasing Agent may accept a Letter of Credit in place of a payment bond on the following conditions:
 - (1) The County Attorney reviews and acknowledges in writing the legal sufficiency of using a Letter of Credit for this contract,
 - (2) The County Attorney reviews and acknowledges in writing the legal sufficiency of the terms of the proposed Letter of Credit, and
 - (3) The Purchasing Agent has verified the acceptability of the financial condition of the institution providing the Letter of Credit.

32.076 Best Value

- (a) Best Value is a method of evaluating the price that includes an evaluation based on the total life cycle cost of the item or service.
- (b) Best Value is the best and lowest overall life cycle cost proposal taking into consideration various factors depending on what is being procured. Factors specific to the product or service that may be considered include:
 - (1) Initial purchase price
 - (2) On-going maintenance and operating cost
 - (3) Expected life of the product or service
 - (4) Capacity for expanding and/or upgrading product or service (such as in software and hardware purchases)
 - (5) Reliability factors
 - (6) Level of training required by County staff
 - (7) Level of technical support required by County staff
 - (8) Reputation of proposer
 - (9) Compliance with the County's contractual terms and conditions

32.077 Consideration of Safety Records

- (a) If the solicitation states that the safety record may be considered in determining the responsibility of the bidder or proponent and includes the Safety Record Questionnaire in its appendix, County takes into account the bidder's safety record in determining the responsible bidder.
 - (1) The safety record includes compliance with requirements for the safety of the environment.
 - (2) In relation to the safety record, bidder includes not only the bidder; but also the firm, corporation, partnership or institution represented by the bidder; or anyone acting for such a firm, corporation, partnership, or institution.
- (b) The definition and criteria for determining the safety record of a bidder are as follows:
 - (1) If the bidder reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the past three (3) years, County will, at its discretion, determine whether to disqualify the bidder.
 - (2) If the bidder reveals more than one (1) case in which bidder has received a citation from an environmental protection agency for violations within the past five (5) years, County will, at its discretion, determine whether to disqualify the bidder.

- (3) Environmental protection agencies include the U.S. Army Corps of Engineer, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Texas Commission on Environmental Quality (TCEQ) and its past associated agency, the Texas Natural Resource Conservation Commission, the Texas Department of Health, the Texas Parks and Wildlife Department, the Structural Pest Control Board, agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States.
- (4) Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30 TAC, Chapter 60.2 (c) (1) and (2).
- (5) If the bidder reveals that the bidder has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, County will determine whether to disqualify the bidder.

32.078 Electronic Transactions

- (a) For solicitations and certain other contracts selected by the Purchasing Agent, vendors may submit their response electronically through BidSync, or a successor vendor selected by the Purchasing Agent.
- (b) Responses may be electronically signed and the ethics affidavit may be electronically sworn.
- (c) All electronic transactions must comply with the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and all other applicable law.

32.079 Vendor List

- (a) The Purchasing Office maintains a list of vendors who have requested that they be sent notices of advertised solicitations. The vendor list is categorized by the commodity/sub-commodity codes for the goods and services that the vendor has indicated it is capable of providing. The Purchasing Office utilizes a third party vendor for maintenance of the vendor list and publication of solicitations. Vendors interested in participating in County solicitations may register with www.bidsync.com.
- (b) Notification of each solicitation is provided to appropriate vendors as a courtesy to vendors and as a means of encouraging competition. Notices of solicitations are sent by a variety of methods, including e-mail and facsimile transmission whenever the vendor has provided appropriate contact information. The Purchasing Office also advertises solicitations on the County Purchasing website at

<https://www.traviscountytx.gov/purchasing/solicitation> and in newspapers of general circulation as required by law.

32.080 Prepayments and Advance Payments

Generally, prepayment is not authorized for any purchase of supplies, materials, equipment, or services. Exceptions are:

- (1) Library materials
- (2) Merchandise purchased from federal and state agencies
- (3) Realty rental
- (4) Subscriptions
- (5) Rental fee for meeting rooms
- (6) Annual maintenance agreements for information technology
- (7) Tuition to an institution of higher education
- (8) Training and travel expenses per Travis County budget rules
- (9) Other prepayments as authorized by the County Auditor and Purchasing Agent.

32.081 Ethical Procurement

- (a) Departments are encouraged to do business with companies who adhere to the federal and state labor laws and regulations including:
 - (1) The Fair Labor Standards Act through limiting child labor, requiring payment for overtime work and establishing a minimum wage.
 - (2) The Occupational Health and Safety Act which requires safe working practices and procedures in all projects.
 - (3) Any state or federal law, including executive orders, prohibiting discrimination or harassment in the work place.
- (b) The Purchasing Office is strongly committed to upholding these beliefs in ethical and humane business practices.

32.082 Grant Funded Purchases

- (a) Grants are administered via a written contract between the County and the granting authority. Texas Government Code section 2261.002(1) includes grants in its definition of a contract for which the recipient of the grant is required to perform a specific act or service, supply a specific type of product, or both.
- (b) All purchases made with grant monies will comply with the terms and conditions of the grant, as well as the County's procedures regarding all purchases.

- (c) The User Department is responsible for providing the Purchasing Agent a copy of all procurement requirements in the grant document in a timely manner. Grants often require compliance with mandatory, and short time frames.

32.083 Foreign Vendors

- (a) Before making any purchase from a foreign vendor, the Purchasing Office coordinates with the Auditor's Office, which ensures that all potential tax implications are addressed.
- (b) An original W-8 must be obtained from each foreign vendor.
- (c) The Auditor's Office adds foreign vendors in SAP.
- (d) Every effort shall be made to locate a domestic vendor before choosing a foreign vendor.

32.084 Reimbursement of County Employees for Certain Purchases

- (a) If approval is received from the Purchasing Agent prior to purchase, reimbursements may be processed for certain goods or services.
- (b) All reimbursements are processed following the FV60 Request for Payment (Direct Payment) process in SAP, and must include support showing that the Purchasing Office approved the expenditure prior to purchase.
- (c) Purchase orders are not issued in a County employee's name.

32.085 Purchases of Applications for Smart Devices

- (a) When a User Department identifies an application for a smart device that the department determines is necessary or would be helpful for its employees to perform their County duties, the Purchasing Office must approve the purchase of such applications before these are made.
- (b) To obtain approval of a purchase, the department head of the person seeking reimbursement the cost of for an application for a smart device must send an email listing the applications and describing their County business functions to the Purchasing Office. This email should include the name of the applications, the intended business function of the applications, the cost of the application, and the name of the person to be reimbursed for the purchase.
- (c) At the same time, the User Department begins an ITS assessment form for the applications.
- (d) If ITS approves the application for County business and the Purchasing Agent approves the purchase, the User Department processes the reimbursement following the FV60 Request for Payment (Direct Payment) process in SAP.

32.086 Local Business Preference

- (a) For the purposes of this subsection, the following words have these meanings:

- (1) "Local Business" means a business whose principal place of business is within the boundaries of Travis County.
 - (2) "Additional economic development opportunities" means the employment of residents of Travis County in the performance of the contract providing goods to the County and the increased property tax revenues available to Travis County from the local presence of the business and the residences of the employees in Travis County.
- (b) Texas Local Government Code, section 271.905, authorizes the County to consider a preference for bids for real and personal property from Local Business in limited circumstances. This section does not authorize the County to consider a preference when awarding contracts for any services, including construction services. Due to the administrative cost of implementation, Travis County has determined that this preference will be applied only to purchases of real and personal property purchased through a formal competitive solicitation for bids that are expected to be in excess of \$50,000.
 - (c) The Purchasing Office ranks all bids from lowest to highest bid price and determines whether the lowest bidder is from a Local Business. If it is, the County awards the contract to the lowest bidder offering unless other allowable considerations prevail against that bidder.
 - (d) If the lowest bidder is not a Local Business, the Purchasing Office calculates 103% of the lowest bid price and compares that to the other bid prices offered to determine whether another bidder is within 3% of the lowest bid price offered and qualifies for further consideration as a local business. If none are within that 3%, then the non-local bidder offering the lowest bid price is awarded the contract unless other allowable considerations prevail against that bidder.
 - (e) If there are bidders within 3% of the lowest bid price, the Purchasing Office, starting with the next lowest bid price, reviews the bid submitted to determine whether that bidder indicated that it is a Local Business in its bid, determines whether that bidder is, in fact, a Local Business and determines whether the bidder has provided any information about any additional economic development opportunities that would result from the award of the contract to it.
 - (f) If the bidder is a local business and has asserted that a contract with it will provide Travis County with additional economic development opportunities, the Purchasing Agent submits an agenda request to the Commissioners Court advising the court that it may award the contract for this solicitation:
 - (1) To the bidder offering the lowest bid price, or
 - (2) To the bidder that is a Local Business if the Commissioners Court determines in writing that the Local Business has offered the best combination of contract price and economic development opportunities for Travis County, or
 - (3) Decline to award any contract and reject all bids.

32.087 Contracts with Bidders from Other States

- (a) For the purposes of this subsection,
 - (1) “Non-resident bidder” means a person whose principal place of business is not in Texas, including a contractor whose ultimate parent company or majority owner does not have its principal place of business in Texas.
 - (2) “Resident bidder” means a person whose principal place of business is located in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- (b) This section only applies to County contracts for general construction, an improvement, a service, a public works project or a purchase of supplies, materials, or equipment that do not involve federal funds.
- (c) The Purchasing Office determines whether:
 - (1) Subsection (b) of this section applies to a specific contract,
 - (2) The bidder is a non-resident bidder, and
 - (3) The state in which bidder’s principle place of business is located is on the list of states that regulate the award of government contracts to a bidder whose principle place of business is not located in that state that is published in the Texas Register by the comptroller.
- (d) If all three criteria in 32.087 (c) apply to this contract, the County may not award the contract to this nonresident bidder unless the non-resident bidder underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the following states:
 - (1) the state where the non-resident’s principal place of business is located, or
 - (2) the state in which non-resident bidder is a resident manufacturer.
- (e) For example, a bidder’s principal place of business is in Alaska. The laws of Alaska give the Alaska bidder a 5% preference. The Alaska bidder submits a bid of \$100,000 on a County contract for general construction that does not involve federal funds. The Alaska bidder cannot be awarded the contract unless all bids by bidders whose principal place of business is in Texas are more than \$105,000.

32.088 Suspended and Debarred Vendor Verification

- (a) Prior to award of a contract, the Purchasing Office checks the Excluded Parties List (Federal Suspended and Debarred Contractors List) to ensure the Contractor is not listed on it. Verification of the Contractor’s status is included in the contract file. The same verification is performed, and included in the contract file, prior to each annual renewal.
- (b) Annually, Purchasing Office administrative staff performs a review of the vendor file to ensure current vendors are not listed on the Excluded Parties List, and includes verification of the vendor’s status in an electronic file.

- (c) If the Purchasing Office determines that a Contractor is on the Excluded Parties List, the Purchasing Office shall contact the Contractor to determine whether there is an error in that list and, if there is no error, the reason that the contractor is excluded. The Purchasing Agent shall advise the Commissioners Court so that it can take appropriate action.

32.089 Taxes Owed to the County

- (a) Prior to award of a Contract, the Purchasing Office checks with the Tax Office to ensure the Contractor is not delinquent on taxes due to the County, and includes verification of this in the contract file. The same verification is performed, and included in the contract file, prior to each annual renewal.
- (b) A contract may be awarded to a contractor who owes taxes to the County, but payment for goods or services provided may be used to offset the amount owed.

32.090 Compliance Verification

To verify compliance with the requirement to competitively solicit contracts in excess of \$50,000, the Purchasing Office prepares a quarterly report on SAP that evaluates which vendors and which product categories have resulted in one or more contracts totaling more than \$50,000 within the previous year.

32.091 Public Information Act Requests

- (a) Requests for information about purchasing contracts are subject to the Government Code, Chapter 522, Public Information.
- (b) All requests for information pertaining to purchasing contracts must be in writing, directed to the Purchasing Agent, and specific enough that information requested is easily identifiable.

32.092 HIPAA Compliance

- (a) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (also referred to as "HITECH"), the regulations promulgated thereunder by the U.S. Department of Health and Human Services, including 45 Code of Federal Regulations.
- (b) The Commissioners Court has designated the following functions as component units under the Health Insurance Portability and Accountability Act of 1996 (HIPAA): the Wellness Clinics, the Health Plans, STARFlight, the health care facilities in the corrections facilities (both at the jail and in juvenile probation), certain HHS programs, and certain Justice and Public Safety programs for offenders.
- (c) Some services that are used by these component units require the vendor to access protected health information. Examples of these services include: claims processing or administration, utilization review, billing, data analysis, data aggregation, processing or administration, quality assurance, repricing; patient safety activities,

plan benefit management, practice management, legal services, actuarial services, accounting services, consulting services, management services, administrative services, accreditation services, or financial services.

- (d) If a User Department, like Facilities Management, ITS, or Records Management, performs services for other departments, when these User Departments submit a shopping cart or other request for goods or services, the Purchasing Office requires these User Departments to determine whether any of the goods or services under that shopping cart will be used by a component unit designated by the Commissioners Court. If not, HIPAA does not apply. If so, then for this shopping cart, this User Department is treated like a User Department that includes a component unit.
- (e) If a User Department includes a component unit designated by the Commissioners Court, then, when these User Department submits a shopping cart or other request for goods or services, the Purchasing Office requires the User Departments to determine:
 - (1) Whether any of the goods or services under that shopping cart will be used by their component unit designated by the Commissioners Court. If not, HIPAA does not apply.
 - (2) If so, whether the selected vendor may obtain any access to protected health information as a result of its performance under the contract. If not, HIPAA does not apply.
- (f) If the selected vendor may obtain any access to protected health information as a result of its performance under the contract, the Purchasing Office, as part of the solicitation and contracting process, requires the selected vendor to enter into a Business Associate Agreement (BAA) with Travis County, preferably at the same time that the contract is executed, but in all cases, before performance under the contract begins.
- (g) If the User Department or the Contractor later learns that the Contractor has access to protected health information as a result of the performance of the contract, they must notify the Purchasing Office of the access to protected health information. If the Purchasing Office receives notice that a Contractor has access to protected health information or otherwise learns that the Contractor has access to protected health information as a result of performance of the contract, the Purchasing Office shall verify this information. As soon as possible after learning of the access, the Purchasing Office shall require the Contractor to enter into a BAA with Travis County.
- (h) In addition, the Purchasing Office shall include a HIPAA Compliance provision in all county contracts. This provision shall include a requirement that if, at any time during the contract, either the County or the Contractor realizes that the Contractor has access to protected health information as a result of performance of the contract, the County and the Contractor shall enter into a BAA immediately.
- (i) The Purchasing Office maintains copies of all BAAs into which the County enters.

32.093 Disclosure of Interested Parties

- (a) This section is adopted to Texas Government Code, section 2252.908.
- (b) If a contract must be approved by Commissioners Court or has a value of more than one million dollars, the Contractor must submit a disclosure of interested parties on the form prescribed by the Texas Ethics Commission when the Contractor executes a Contract with the County.
- (c) The disclosure form includes a list of each interested party of which the contractor is aware and must be signed by an agent of the contractor under oath and penalty of perjury.
- (d) Interested parties are persons who have a controlling interest in the Contractor or actively participate in soliciting the contract on the contractor's behalf, including a broker, intermediary, adviser or attorney. Controlling interest is an ownership interest in the business of the Contractor that is large enough to control the decisions of the business.
- (e) Within 30 days of receipt of the disclosure form, the County must submit the form to the Texas Ethics Commission.
- (f) This section applies to contracts entered into on or after January 1, 2016.

32.094 Conflict of Interest Disclosure

- (a) This section provides a concise overview of the requirements related to the disclosure of conflicts of interest in Texas Local Government Code, Chapter 176.
- (b) For this section, a County officer means:
 - (1) The members of the Commissioners Court, and
 - (2) Any person or agent, including employees, who exercises discretion in planning for selection of, recommending, selecting or contracting with a vendor who enters into a contract with the County.
- (c) Unless the County officer is an employee who is acting in his or her official capacity, a County officer must file the conflicts disclosure statement prescribed by the Texas Ethics Commission related to any vendor who has done any of the following within the 12 months before the County considers entering into or enters into a contract with the vendor:
 - (1) Entered into an employment or business relationship with the County officer or a family member of the County officer that results in \$2,500 in taxable income, other than investment income within that 12 months, or
 - (2) Given the County officer or a family member of the County officer one or more gifts with a total value of more than \$100, where gifts include lodging, transportation and entertainment as a guest but do not include political contributions or food received as a guest, or
 - (3) Has a family relationship with the County officer.

- (d) If a County officer is not an County employee who is acting in his or her official capacity, the prescribed conflicts disclosure statement must be filed with the County Clerk by the County officer not later than 5 pm on the 7th day after the date on which the County officer becomes aware of facts that require filing this statement.
- (e) A vendor must file the conflicts disclosure statement prescribed by the Texas Ethics Commission if the vendor:
 - (1) Has a business relationship with the County and has an employment or other business relationship with any County officer or a family member of the County officer that results in \$2,500 in taxable income, other than investment income, or
 - (2) Has given the County officer or a family member of the County officer one or more gifts with a total value of more than \$100, where gifts include lodging, transportation and entertainment as a guest within the 12 months before the vendor considers entering into or enters into a contract with the County but does not include political contributions or food to a guest, or
 - (3) Has a family relationship with a County officer.
- (f) The vendor must file the prescribed conflicts disclosure with the County Clerk not later than 5 pm on the 7th day after the date on which the vendor:
 - (1) Begins discussion or negotiations to enter into a contract with the County,
 - (2) Submits an application, response to a request for proposals or bids, correspondence or other written document related to a potential contract with the County, or
 - (3) Becomes aware of:
 - (A) An employment or other business relationship with a County officer or a family member of a County officer,
 - (B) One or more gifts to a County officer or a family member of the County officer with a total value of more than \$100, where gifts include lodging, transportation and entertainment as a guest within the 12 months before the vendor considers entering into or enters into a contract with the County but does not include political contributions or food to a guest, or
 - (C) A family relationship with a County officer.
- (g) Failure to file these disclosure statements is a criminal offense. The severity of the offense is determined by the monetary value of the contract.
- (h) The Purchasing Agent shall maintain a list of County officers and make it available to the public and any vendor who may be required to file a conflict of interest disclosure statement.
- (i) The County Clerk shall maintain the statements and questionnaires required to be filed.

[32.095-32.119 Reserved for Expansion]

Subchapter H. The Shopping Cart Process

32.120 Definition

- (a) The shopping cart in SAP is the formal request for a purchase to be made.
 - (1) Adequate budget funds must be available in the departmental line items before the Purchasing Office can purchase the requested goods and services from the vendor.
 - (2) Manual shopping carts and purchase orders to vendors are not acceptable, unless the Purchasing Agent has approved the manual process in writing.
- (b) The only exceptions to automated purchase orders are the Requests of Payment processed directly by the Auditor's Office for the following goods and services:
 - (1) Subscriptions/Publications
 - (2) Notary Fee
 - (3) Certifications and Memberships
 - (4) Law Books
 - (5) Interest on Judgements
 - (6) Utilities
 - (7) Court related fees
 - (8) Risk Management Liability
 - (9) Appraisal District Fees
 - (10) Foster Parent Reimbursement
 - (11) Medical Services for Juvenile and Adult offenders
 - (12) Amounts paid from balance sheet accounts (commitment items 2XXXXX)
 - (13) Indigent assistance (Rent/utilities, etc. (CABA), court-appointed attorneys – civil/criminal, vehicle emissions repair/replace (LIRAP))
 - (14) On-line classes for training purposes
 - (15) Licenses and permits
 - (16) Refunds
 - (17) Purchasing pre-approved employee reimbursements for commodities.

32.121 Purpose

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

32.122 Procedure

- (a) Shopping carts should fully describe what to buy, when it is required, and where the goods are to be delivered or the services are to be performed.
 - (1) For contract items, the SAP system “builds” the description of the item from a pre-loaded contract.
 - (2) For non-contract or “free text” shopping carts, the User Department should include a complete description of the item(s) needed.
- (b) The User Department should research all information **before** it enters a shopping cart.
- (c) After the Purchasing Office receives a shopping cart, staff determines the appropriate purchasing method based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services and other relevant factors.
- (d) Specific instructions on entering shopping carts into SAP are not covered in this chapter. The user department can contact the Purchasing Office for training.

32.123 Types of Shopping Carts

- (a) The Purchasing Office classifies shopping carts according to the type of action and the time required for the purchase. There are four types of shopping carts for routine purchases:
 - (1) Contract. Normal shopping carts for items ordered from existing contracts that are loaded in SAP. **Contract shopping carts generally require one working day to process.**
 - (2) Routine. Normal shopping carts under \$50,000 not ordered from existing contracts (i.e. “free text” shopping carts). **These generally require 2 to 4 weeks to process.**
 - (3) Expedited. Non-contract shopping carts for items not ordered from an existing contract where the goods or services are needed sooner than the routine time to avoid work interruption, loss of service, or significant added cost of operations, or goods or services are needed quickly to prevent costly delays, and therefore, the purchase of these items warrants the additional cost and effort caused by the interruption of the normal work routine. Expedited shopping carts generally do not qualify as emergency purchases and are subject to all applicable procurement requirements. **Expedited shopping carts require 1 to 3 working days to process.**
 - (4) Emergency/Work Stoppage.
 - (A) Emergency means circumstances where an immediate response is required for the safety of persons or property, or where goods or services are needed immediately to prevent work stoppage due to unanticipated conditions.

(B) Emergency shopping carts with a total cost under \$50,000 are handled like an expedited shopping cart. The User Department should telephone or e-mail the Purchasing Office immediately upon entering the shopping cart and should also provide written documentation of the existence of a work stoppage. Written comments in the shopping cart or e-mail justification from User Department head, County Executive or designee are acceptable documentation. The Purchasing Office instructs the User Department on what action to take. This method should not be used unless absolutely required.

(b) Cycle time to process a shopping cart refers to the time between when the cart is received in the Purchasing Office and when a purchase order is placed with a vendor. Cycle time does not include the time required for delivery, or the time it takes for the Purchasing Office or the User Department to make corrections to budget line item accounts, product category codes, and similar actions associated with a purchase that are not processed by the Purchasing Office.

32.124 Shopping Cart Checklist

Step:	Reference Source:
<p>Identify the product category code for the item(s) to determine the accounting line item(s) to be used and ensure that there are sufficient budgeted funds available. Perform budget transfer if necessary, before submitting shopping cart.</p>	<p>SAP system</p>
<p>Find the desired item(s) and obtain the following information:</p> <ul style="list-style-type: none"> ✓ Manufacturer Name (e.g. Dell) ✓ Model Number (e.g. Pentium series II, model number 135867) ✓ Unit of measure (e.g. each) ✓ Unit price, quantity, and total price ✓ Item description (complete description with as much detail as possible) 	<p>Vendor catalog, Internet research</p>
<p>Enter the full description for the item(s) being purchased in the shopping cart. Example of full description (file cabinet):</p> <p style="padding-left: 40px;">File Cabinet, Vertical, 2 Drawer, Letter Size, Dimensions 27 3/4"H x 17 11/16"W x 25"D,</p> <p style="padding-left: 40px;">Color: Steel Gray</p> <p style="padding-left: 40px;">Shipping Weight: 320 Lb.</p> <p style="padding-left: 40px;">MFG: FireKing P/N FK25</p> <p style="padding-left: 40px;">(seen online at Office Depot catalog)</p>	<p>Vendor catalog, Internet research</p> <p>Helpful hint: Copy the model description information from the source and include it on the shopping cart. Also, identify the source of the information (e.g. Office Depot catalog p.22 or online at www.officedepot.com, item xxx)</p>
<p>Check the vendor name to see if the vendor exists in SAP and verify the vendor number. If the vendor does not exist in SAP, enter the following into shopping cart comments:</p> <ul style="list-style-type: none"> ✓ Vendor name ✓ Vendor address ✓ Vendor telephone number ✓ Vendor point of contact (who you talked with to get product information) ✓ HUB status (ethnicity, gender, expiration date) ✓ W-9 (to be attached to the shopping cart) 	<p>SAP system</p>
<p>Identify shipping and delivery information including:</p> <ul style="list-style-type: none"> ✓ Date required ✓ Shipping (determine if it is included in price or is a separate item) ✓ Department point of contact to whom item will be delivered ✓ The "Ship to" location ✓ Any specific delivery instructions (location, room number, time of day etc.) ✓ Any special options that are available, but not part of description (color, fabric, etc.) 	<p>SAP system</p>

[32.125-32.129 Reserved for Expansion]

Subchapter I. Open Market (Non-Contract) Purchases Under \$50,000

32.130 Policy

For non-contract purchases of goods and services totaling less than \$50,000, the Purchasing Office is authorized to select the exact goods or services to meet the requests of User Departments.

The Purchasing Agent is authorized to select the vendor and to perform all actions necessary to enter into a contract to purchase the goods and services, including execution of the purchase order without specific approval of the Commissioners Court.

32.131 Considerations

In selecting the exact goods or services requested by the User Departments, the Purchasing Office considers the following:

- (1) The stated needs of the User Department and whether the exact goods or services selected meet those needs;
- (2) Available information about sources and prices of the goods and services;
- (3) The delivery requirements of the vendor and the User Department; and
- (4) Any other information that a reasonable and prudent purchasing professional would consider in all the circumstances of the purchase.

32.132 Procedure

- (a) The User Department submits a free text shopping cart in SAP with detailed descriptions of the goods or services required. Based on the information in the shopping cart, wherever reasonable and practical, the Purchasing Office:
 - (1) Attempts to obtain at least three informal quotes (at least one of which is a certified HUB) before selecting a vendor;
 - (2) Documents in writing the vendors contacted and prices offered;
 - (3) Selects the vendor who makes the best offer taking into account not only price but also the urgency of the User Department's need and the speed of delivery and the quality of the goods and services offered; and,
 - (4) Orders these goods and services from the vendor who provides the quality, cost, and delivery schedule most consistent with the needs of the User Department.
- (b) If quality and delivery terms meet County needs, the vendor who provides the lowest price is selected. If the vendor offering the lowest price is not used, a notation is made to the quotation documentation to indicate the reason another vendor is selected.

- (c) The Purchasing Office may deviate from the procedure for purchases under \$50,000 if the purchase is in Travis County's best interest and facilitates specific County operations.
 - (1) As a general rule for purchases up to \$2,499, the Purchasing Office solicits a quote from a certified HUB, if possible.
 - (2) Generally, for purchases greater than \$2,500 but less than \$50,000, the Purchasing Office attempts to obtain three informal quotes, at least one of which is from a certified HUB.

32.133 Violations

- (a) Intentionally separating purchases or invoices to avoid the \$50,000 formal competitive bidding requirement is a violation of the Purchasing Act.

[32.134-32.135 Reserved for Expansion]

Subchapter J. Specifications

32.136 Definition

A specification is a description of goods or services that a User Department seeks to buy and the requirements the vendor must meet to be considered for a contract award. A specification may include requirements for testing, inspection, preparing goods or services for delivery, or installing them for use. The specification is the description of the goods and services to be purchased.

32.137 Use of Consultant Services

A consultant who participates in the drafting of specifications may not submit a proposal on the subsequent solicitation. In addition, a consultant assisting with a public work project who participates in the design, drafting of specifications, or cost estimating in connection with that project may not submit a proposal or bid on the subsequent competitive solicitation for delivery of it.

32.138 Purpose of Specifications

The primary purpose of any specification is to provide vendors with firm criteria about the minimum standard acceptable for goods or services by providing reasonable tests and inspections to determine their acceptability and to provide purchasing personnel with clear guidelines from which to purchase. As a result, the specification also:

- (1) Promote competitive bidding, and
- (2) Provide a means to make an equitable award to the lowest and best bid from a responsible bidder for items purchased under the Purchasing Act and to the lowest responsible bidder for certain public works contracts.

32.139 Preparation of Specifications

- (a) In writing specifications, User Departments are encouraged to obtain an existing specification to provide ideas and examples that can be customized for Travis County purposes. The User Department should contact the Purchasing Office for assistance in obtaining existing specifications to facilitate the specification development process.
- (b) To gather information to facilitate writing specifications, a Request for Information (RFI) may be issued. Responses to an RFI allow vendors to have input into the solicitation document based on current industry practices and market factors, and may provide helpful information in the preparation of a complete specification.
- (c) There are numerous sources of specifications. These include other governmental entities, professional trade associations, professional purchasing associations and User Department knowledge. Some specification libraries that are available include:
 - (1) Texas Specification Library located at the Texas Comptroller of Public Accounts website: www.window.state.tx.us/procurement/pub/specifications-library/
 - (2) General Services Administration, Federal Supply Service – Specifications Section found at www.gsa.gov
 - (3) Texas Department of Transportation Standard Specification Index located at http://www.dot.state.tx.us/gsd/purchasing/tssi_alpha.htm
 - (4) National Institute of Governmental Purchasing. Contact the Purchasing Office for assistance with this source because it is available to members only.
- (d) The User Department, occupant department, or an outside agency may propose specifications.
 - (1) The Purchasing Office is responsible for final acceptance of the specifications, except those for construction projects. This ensures compliance with legal requirements and proper quality control and avoids the proliferation of conflicting specifications in different County departments.
 - (2) The Purchasing Office may submit any purchases that were not approved in the budget process to Commissioners Court before final specifications are prepared and advertised.
- (e) To facilitate specification development and avoid duplication of efforts, User Departments should submit their specifications in electronic format to the Purchasing Office.

32.140 Characteristics of an Effective Specification

An effective specification has the following characteristics:

- (1) Simple. Avoids unnecessary detail, but is complete enough to ensure that purchased goods and services satisfy their intended purpose.

- (2) Clear. Uses terminology that is understandable to the User Department and vendors. Eliminates confusion by using correct spelling and appropriate sentence structure. Avoids the use of jargon and “legalese”.
- (3) Accurate. Uses units of measure that are compatible with industry standards. Identifies all quantities. Describes packing requirements.
- (4) Competitive: Identifies at least two commercially available brands, makes, or models (whenever possible) that satisfy the intended purpose. Avoids unneeded “extras” that could reduce or eliminate competition and increase costs. Avoids details that are not necessary to serve the intended purpose.
- (5) Flexible. Does not prevent the acceptance of a response that could offer greater performance for fewer dollars. Uses approximate values that are within a 10% range for the dimensions, weight, speed, etc. (whenever possible) if these values can satisfy the intended purpose.

32.141 Types of Specifications

The Purchasing Office uses a number of specification types:

- (1) Design. Details description of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other information needed to produce an item of minimum acceptability. Design specifications are usually (but not exclusively) required for construction projects, custom-produced items and many services.
- (2) Performance. Details required performance parameters such as required power, strength of material, test methods, standards of acceptability, and recommended practices. Performance specifications are usually used for capital equipment purchases.
- (3) Brand Name or Equal. Lists goods or services by brand-name, model, and other identifying specifics, except that products with performance equivalent to the characteristics of the named brand are specified as acceptable. Other manufacturers may provide a nearly identical product under another brand name. The Purchasing Office uses this method only if there is sound justification. The burden of justification rests with the User Department.
- (4) Industry Standard. States an industry standard that is identical, regardless of manufacturer, and that results in acquisition of goods of uniform quality. The UL standard for electrical products is an example of an industry standard.

[32.142-32.144 Reserved for Expansion]

Subchapter K. Competitively Solicited Purchases Exceeding \$50,000

32.145 Definitions and Use

- (a) There are two primary types of solicited purchases - competitive bidding and competitive proposals. Competitive solicitation means letting available vendors compete with each other to provide goods or services.
- (b) The Texas Supreme Court states:

"Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items and services covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.-Dallas 1951, no writ).

32.146 Purpose of Competitive Bidding

- (a) The Texas Supreme Court also states: "The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best work and materials at the lowest practicable price for the best interest of the taxpayers and property owners." Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App.-Dallas 1951, no writ).
 - (1) The first purpose of competitive solicitations is to ensure the best possible value is received. Competitive solicitations also increase the likelihood that public monies are spent properly, legally, and for public projects only.
 - (2) The second purpose is to give those qualified and responsible vendors who desire to do business with the County a fair and equitable opportunity to do so.
- (b) Competitive Bidding
 - (1) The term "Formal Competitive Bidding" generally applies to public purchasing which requires approval of the contract by the Commissioners Court and when the solicitation process complies with either
 - (A) Texas Local Government Code, section 262.023, or
 - (B) Texas Government Code, Chapter 2269, subchapter C.
 - (2) "Sealed" bids are solicited through an Invitation for Bid (IFB) for contracts expected to exceed \$50,000. The IFB is the document used to solicit bids from vendors in response to the County's specifications and contractual terms and conditions.
 - (A) The Commissioners Court must approve the contract resulting from the returned and signed IFB.

- (B) The awarded IFB with the Notice of Contract Award letter signed by the Purchasing Agent form the contract between Travis County and the vendor.
 - (C) Competitive bids are not negotiated. With few exceptions, price is the sole determinant factor if the vendor's product or services meet the requirements of the specification.
- (3) The IFB method is the preferred method of procuring goods and supplies and non-personal services. It is used when the requirement can be definitively described, is readily available, and is an off-the-shelf type of requirement.

(c) Competitive Proposals

- (1) The term "Formal Competitive Bidding" generally applies to public purchasing which requires approval of the contract by the Commissioners Court and when the solicitation process complies with either
 - (A) Texas Local Government Code, section 262.023, or
 - (B) Texas Government Code, Chapter 2269, subchapter C.
- (2) Sealed proposals are solicited through a Request for Proposals (RFP).
 - (A) The RFP solicits proposals from vendors in response to the County's functional requirements and contractual terms and conditions.
 - (B) A formal contract, reviewed by the County Attorney's Office, must be approved by the Commissioners Court.
- (3) Formal "sealed" proposals are used to procure insurance, high technology goods and services, landscape maintenance, travel management and recycling.
- (4) "High technology" goods or services mean goods or services of a highly technical nature, including:
 - (A) Data processing equipment, software and firmware used in conjunction with data processing equipment;
 - (B) Telecommunications, radio, and microwave systems;
 - (C) Electronic distributed control systems, including building energy management systems; and
 - (D) Technical services related to those goods and services.
- (5) While the competitive proposal (RFP) process is similar to the competitive bidding (IFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated contract. Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors must be specified in the RFP and considered in recommending award. Also, the proposals are received, but are not opened publicly. Proposal contents are not disclosed until after a contract is awarded. Proposal contents that are trademarked or proprietary may remain confidential pursuant to the Texas Public Information Act.

- (6) In accordance with the Texas Local Government Code 262.030(d), the formal competitive proposal (RFP) method may also be used to purchase other items more typically bid when the Purchasing Agent determines that it is in the best interest of the county and obtains the consent of the Commissioners Court.

32.147 Procedures

In Travis County, competitive solicited procurements which call for approval by Commissioners Court due to an expenditure in excess of \$50,000 are required to comply with the requirements of Subchapter C of the Purchasing Act and, with few exceptions, are accomplished by the following processes.

Throughout this chapter, “bids” are vendor responses in the IFB process and “proposals” are vendor responses in the RFP process. Unless specifically noted, the procedures apply to both the IFB and RFP.

32.148 Defining the Need

- (a) IFB: When the need for a good or service (greater than \$50,000) is identified, the User Department should immediately contact the Purchasing Office for assistance in developing the final specifications. The final specification should be comprehensive and broadly defined to allow maximum competition.
- (b) RFP: When the need for the goods or services (greater than \$50,000) is identified, the User Department should immediately contact the Purchasing Office for assistance in defining the requirements to be used for the solicitation. The User Department is responsible for submitting a Statement of Work (SOW) or Technical Requirements, which functionally define its needs and requirements. The Purchasing Agent ensures that the SOW or Technical Requirement is quantified and structured to:
 - (1) Secure the best economic advantage utilizing best value;
 - (2) State the needs clearly;
 - (3) Be contractually sound;
 - (4) Treat all vendors fairly and without favoritism;
 - (5) Encourage innovative solutions to the requirement described; and
 - (6) Permit free and open competition to the maximum extent reasonably possible.

32.149 Ongoing Maintenance

An often-overlooked cost of equipment or software is ongoing maintenance. All ongoing maintenance issues should be considered, evaluated, and priced in the initial procurement process.

32.150 Written Memorandum

- (a) A written memorandum submitted to the Purchasing Agent and signed by the Official or County Executive or designee or an e-mail directly from the Official or County Executive or designee serves as the initial purchase requisition for goods or services. The memorandum must include the budget line items from which the purchase is funded or an explanation about how funding is obtained before the Purchasing Office proceeds with the preparation of the competitive solicitation.
- (b) Requirements or specifications should be attached to the memorandum and forwarded electronically to the Purchasing Office. If requirements or specifications are not attached, the Purchasing Office and the User Department may jointly develop them.
- (c) The User Department follows up with entry of a shopping cart or funds reservation documentation in SAP. The Purchasing Office does not proceed with a solicitation unless:
 - (1) The appropriate budget line item includes sufficient unencumbered funds for the purchase; or
 - (2) The Planning and Budget Office verifies that funds are available through budget transfers.

32.151 Bidders List

The Purchasing Office uses BidSync (www.bidsync.com) to maintain the Bidders List. All vendors registered within the applicable specific commodity and sub-commodity category are solicited. All HUB vendors are encouraged to register with BidSync so they are included in formal solicitations within the commodity codes they select.

32.152 Notice

- (a) When the Purchasing Office has finalized the specifications or requirements with the User Department, the Purchasing Office prepares the solicitation for issuance and publishes a notice of the proposed purchase that complies with the requirements in Texas Local Government Code, section 262.025.
- (b) According to section 262.025, notice of a proposed purchase must be published at least once a week for two consecutive weeks in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the solicitation opening. To ensure vendors sufficient time to complete and return the solicitation, the Purchasing Office generally advertises for 21 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days. The notice must include:
 - (1) The specifications or requirements describing the goods and services to be purchased, or a statement of where the specifications or requirements may be obtained;

- (2) The time and place for receiving and opening responses to the solicitation and the name and position of the employee to whom the solicitations are sent;
- (3) Whether the vendor should use lump-sum or unit pricing;
- (4) The type of bond required of the vendor, if any; and
- (5) The method of payment by the County.

32.153 Special Considerations

- (a) IFB: If unit pricing is required, the County must specify approximate quantities to be purchased estimated on the best available information. The solicitation must explain how the lowest price is calculated in the IFB.
- (b) RFP:
 - (1) The Commissioners Court must approve advertising for any RFP for which there is not adequate funding approved in the budget and for which PBO has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.
 - (2) If the RFP is for high technology goods and services, ITS must review it before it is advertised.
 - (3) Records Management and Communication Resources may also review any technology purchases related to records management.
 - (4) For all other purchases, the Commissioners Court delegates its authority to approve the description of the requirements to the Purchasing Agent.

32.154 Amendment of Solicitation

- (a) The Commissioners Court authorizes the Purchasing Agent to extend the proposal opening date stated on the notice of a solicitation if an error is discovered, or if the nature of the goods or services requires an extension. The Purchasing Agent may amend a solicitation if:
 - (1) Inquiries about the meaning of a substantive requirement or other critical element of the solicitation indicate the need for an amendment to clarify the original intent or to correct clerical errors;
 - (2) The changes are so insignificant that they are not likely to matter to the vendor's ability to respond; or
 - (3) The amendment does not change the general scope of the solicitation.
- (b) There should be at least three days between the date of the amendment and the opening date in the notice. If there are less than three days, the opening date is extended to allow for a minimum of three days between the date of the amendment and the opening date in the amendment.

32.155 Pre-Response Conference

- (a) Texas Local Government Code, section 262.0256 allows the Commissioners Court to require potential vendors to attend a mandatory pre-response conference to discuss contract requirements and answer vendor questions.
- (b) The Purchasing Office works with the User Department to determine if a pre-response conference is necessary and whether attendance is mandatory or optional.
- (c) The Purchasing Office manages any pre-response conference and requests that the User Department makes staff available to answer questions at the conference.

32.156 Receipt of Responses to Competitive Solicitations

- (a) To ensure the identification, security, and confidentiality of responses to solicitations, both electronic and paper, the Purchasing Office adheres to the following procedures:
 - (1) The Purchasing Agent receives all responses as specified by the solicitation document.
 - (2) Solicitations are not accepted after the opening time on the day of response opening. All responses offered after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response arrived after the due date and time.
 - (3) The Purchasing Office records the name of the vendor's representative submitting the solicitation, and the time and date the response was received.
 - (4) After a response is received, the Purchasing Office provides a secure place to hold it until the opening date and time. The responses are only accepted if sealed. Responses remain sealed until the Purchasing Office opens them in a public forum at the advertised date and time.
 - (5) On rare occasions, responses that are received in the mail or by other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Office is immediately called to act as a witness that the details of the response (especially the price for a bid) were not reviewed and the response is resealed by that employee of the Purchasing Office, and the incident is documented.
- (b) The above process shall be undertaken in a manner that precludes any perception of favoritism and avoids revealing prices or response information. Publicly receiving sealed responses and recording the submission of requested responses inhibits both the ability to and any perception that the Purchasing Office is manipulating the receipt of solicitations.

32.157 Public Opening of Solicitations

- (a) IFB: The Purchasing Agent publicly opens, reads aloud, and documents the bid, including the price, at the date, time, and place specified in the notice. Preliminary tabulations are provided to the public upon request.

(b) RFP:

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

32.158 Confidentiality Memorandum (RFP)

- (a) As fully described in this chapter, the Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping all information in a proposal confidential until after contract award.
- (1) Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to evaluation committee members for signature and certification. The memorandum contains the requirement to keep information confidential until the Commissioners Court approve an award.
 - (2) The memorandum also includes the requirement to disclose any potential conflict of interest and restrict all communications during the evaluation process, including any attempted communication by the proposer directly with the evaluation committee members during evaluation.
 - (3) The evaluation committee members are required to adhere to these requirements during the competitive process.

32.159 Evaluation

- (1) IFB:
 - (A) The Purchasing Office evaluates all bids with assistance from the User Department and recommends the lowest responsible bid to the Commissioners Court for award. The Purchasing Office evaluates bids based on:
 - (i) The relative price, including the cost of repair and maintenance if heavy equipment is the subject of the bid or the cost of delivery and hauling if road construction is involved;
 - (ii) The compliance of goods and services bid with specifications,
 - (iii) The vendor's past performance; and
 - (iv) The responsibility of the vendor, including the vendor's financial and practical ability to perform the contract, and the vendor's safety record if the IFB states that it is to be considered.

- (B) The Purchasing Office forwards the bids and the Bid Tabulation Package to the Official or County Executive for consideration. The User Department recommendation and other appropriate documentation from the User Department are submitted with the agenda request to justify the recommended award.
 - (C) When the lowest priced bid is not the recommended bid, clear justification for not selecting the lowest bid must be documented. Commissioners Court either approves the recommendation or rejects all bids and authorizes the Purchasing Agent to re-bid the goods or services.
- (2) RFP:
- (A) The Purchasing Office supervises the evaluation process performed by the User Department or committee to ensure that the evaluation is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional technical assistance provided during the evaluation process by the Planning and Budget Office, Auditor, ITS, or Records Management, if applicable.
 - (B) The RFP must specify the relative importance of price and other evaluation factors, including the weight of each factor. Evaluators only use the specified factors in evaluating proposals. Purchasing Office staff leads the evaluation team and is responsible for:
 - (i) Tabulating scores;
 - (ii) Calculating values; and
 - (iii) Either coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award or discontinuing the process.
 - (C) After the evaluation is completed, the Purchasing Office forwards an evaluation summary to the Official or County Executive for concurrence with the selection and requests that the Official or County Executive submit a memorandum to the Purchasing Agent signifying their concurrence. Purchasing makes the recommendation to Commissioners Court.
- (3) For high visibility or high dollar value solicitations, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked proposers before requesting best and final offers.

32.160 Negotiations

- (a) The Purchasing Agent supervises all negotiations. Any conversations with proposers must be coordinated with the Purchasing Office.
 - (1) A member of the Purchasing Office should be present for all discussions with proposers.

- (2) Departments that contact proposers without coordinating with the Purchasing Office risk jeopardizing the integrity of the County procurement process.
- (b) All proposers must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of proposals and submittal of a "Best and Final Offer" (BAFO).
- (c) After the negotiations are complete, the Purchasing Office requests qualified proposers to submit a BAFO to a specified location by a specified date. Based on the negotiations, the BAFO must allow the proposer to:
 - (1) Modify the initial offer;
 - (2) Update pricing based on any changes the User Department or County has made to requirements; and
 - (3) Include any added inducements to improve the overall proposal in accordance with the evaluation plan of the RFP.

32.161 Contract Award

- (a) IFB:
 - (1) The Purchasing Agent recommends contract award to Commissioners Court. The Commissioners Court either:
 - (A) Awards the contract to the responsible bidder who submits the lowest and best bid from a responsible bidder for items purchased under the Purchasing Act and to the lowest responsible bidder for certain public works contracts; or
 - (B) Rejects all bids and directs the Purchasing Office to publish a new notice if the goods or services are still needed.
 - (2) If two or more responsible bidders submit the lowest and best bid for items or are the responsible bidder for certain public works contracts, the Commissioners Court decides between them by drawing lots in a manner prescribed by the County Judge.
 - (3) A contract may not be awarded to a bidder who is not the lowest priced bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence about its responsibility.
 - (4) After Commissioners Court approves the contract, the Purchasing Agent issues a Notice of Contract Award. This notice and the original bid or contract form the complete contract. A complete contract is maintained in the Purchasing Office. Additional originals are furnished to the Contractor and the County Clerk. Electronic copies of these are furnished to the User Department, the Auditor's Office, and the County Attorney.
- (b) RFP: The BAFO is the basis of a recommendation for contract award. The award of the contract is made by Commissioners Court to the responsible proposer whose proposal is determined to be the lowest evaluated offer resulting from negotiation,

taking into consideration the relative importance of price and other RFP evaluation factors in RFP. Before award, a final contract document that incorporates the goods and services offered in the proposal as modified by the BAFO at the prices confirmed in the BAFO is prepared for approval by the Commissioners Court and execution by the County Judge.

32.162 Term Contracts

- (a) A term contract is an agreement for a specific product or service at a specific price for a defined time frame. User departments may use an established term contract with proper authorization and funds availability. Items purchased under term contracts include at least office supplies, plumbing supplies, vehicle repairs, janitorial services, and medical supplies.
- (b) The Purchasing Office monitors the expiration dates of all term contracts. Purchasing notifies User Departments by memorandum at least four months before a term contract will expire and verifies whether the contract needs to be re-bid or extended, if extensions are available, because the goods or service continue to be needed. A written memorandum submitted to the Purchasing Agent serves as the request to renew the term contract.
 - (1) Renewal of Term Contract. If vendor performance is satisfactory, the User Department wishes to extend the contract, and an extension is available, the Purchasing Office issues a modification to extend the contract.
 - (2) Re-solicitation. If no extensions are available, Purchasing also sends the existing specifications or requirements to the User Department and requests any changes before the solicitation is reissued. The User Department reviews and returns the specifications or requirements with any additions, deletions, or corrections noted.

32.163 Procurement Methods

Procurement Method	Use When	Advantages	Disadvantages
Competitive Bids (Invitation for Bids)	The product or service is available from more than one source.	Award process is simpler. Award is made to the lowest responsive, responsible bidder providing the best value to the County.	Detailed specifications may be difficult to develop. It may discourage innovative solutions.
Competitive Proposals (Request for Proposals)	Factors other than price may be evaluated. Negotiations are desired. Vendor is expected to provide innovative ideas.	Factors other than price may be considered. Customized proposals may suggest different approaches to the same business need.	Lead times for procurement may be greater. Evaluations are more complex and can become subjective.

	RFPs can only be used for high technology goods and services, landscape maintenance, travel management and recycling, and other items when it is determined to be in the best interest of the county.	Negotiations may obtain the best value for the County.	
Request for Information	There is insufficient information to write adequate specifications for any procurement method.	Responses provide information to prepare a complete bid or proposal document. The business community has input into the solicitation document based on current industry practices and market factors. County is informed of any potential problems before the procurement process begins.	May lengthen the procurement process.
Request for Qualification [This method is required by statute (e.g. Professional Services)]	Selection is made solely on the skills and qualifications of the professional. For architects, engineers, and land surveyors, price is not a factor until after a qualified vendor is selected.	The competency of the proposed professional contractors is emphasized	Contractor is tentatively selected before price is negotiated.

[32.164-32.170 Reserved for Expansion]

Subchapter L. Reserved for Reverse Auction Procedures

[32.171-32.225 Reserved for Expansion]

Subchapter M. State Purchasing Programs

32.226 Background and Statutory Authority

There are five types of purchasing programs that allow local governments to purchase goods and services using contracts previously competed by the State of Texas or other governmental entities. The Texas Comptroller of Public Accounts Procurement and Support Services (TPASS) manage two of them. The Department of Information Resources (DIR) manages the other three programs and allows local governments to purchase computer technology through DIR from its contracted vendors.

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

32.227 Official Representative

The Purchasing Agent acts for Travis County in all matters related to purchase of goods and services from a vendor under any contract based on a state purchasing program. Travis County is responsible for making payments directly to these vendors.

32.228 Contract Award

Any purchase order contract from a state term, TXMAS or DIR contract must be in writing and approved and signed by the Purchasing Agent before any goods are delivered or services are performed. The Commissioners Court authorizes the Purchasing Agent to execute all contracts for state contract purchases that are procured in compliance with this chapter, including purchases in excess of \$50,000, if funding for the purchase was previously approved by the Commissioners Court.

32.229 State Term Contract Purchases

- (a) Travis County participates in the purchasing program of TPASS for local governments.
- (b) The Purchasing Agent either submits purchase orders to TPASS under a contract or electronically sends purchase orders directly to selected vendors and reports to TPASS on actual purchases in compliance with its regulations. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for all purchases for the County under this program.
- (c) To initiate this process, the User Department submits a shopping cart. The Purchasing Office determines whether or not the requested goods or services are available from TPASS contracts and whether it is in the best interest of the County to procure the goods or services without issuing a competitive solicitation. If they are

available, the Purchasing Office assigns a state requisition number that is used for reporting and payments.

32.230 Texas Multiple Award Schedules (TXMAS) Purchases

- (a) Travis County participates in the purchasing program of TPASS using TXMAS contracts developed from contracts that have been competitively awarded by the federal government or any other governmental entity of any state.
- (b) The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases for the County under this program.
- (c) To initiate this process, the User Department may research goods and services on the TPASS website to determine if the goods or services are available from TXMAS. Based on its research, the User Department submits a shopping cart and states in the comments that the good or service may be available through TXMAS. The Purchasing Office determines whether or not the requested goods or services are available from TXMAS and compares prices among TXMAS vendors to obtain the best value. The Purchasing Office works with the User Department to determine best value and then issues a purchase order directly to the selected vendor providing the best value.
- (d) If TXMAS contracts have been loaded in SAP, the User Department submits a contract shopping cart using the procedures outlined in this chapter.

32.231 Department of Information Resources (DIR) Purchases

- (a) GoDIRect:
 - (1) The County may purchase computer-related equipment and services through the state's Department of Information Resources (DIR) and from its contracted vendors. The County contracts with DIR and uses its GoDIRect program.
 - (2) The Purchasing Agent either submits purchase orders to DIR under a contract or electronically sends purchase orders directly to GoDIRect vendors. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases under this program.
 - (3) To initiate this process, the user department may research goods and services on the DIR website to determine if the goods or services are available from DIR or its contracts.
 - (A) Based on its research, the User Department submits a shopping cart and states in the comments that the good or service may be available from DIR.

- (B) The Purchasing Office determines whether or not the requested goods or services are available from DIR and whether it is in the best interest of the County to procure the goods or services without issuing a competitive solicitation. If available and in the County's best interest, the Purchasing Office compares prices among DIR vendors to obtain the best value. The Purchasing Office works with User Department to determine best value and issues a purchase order directly to the selected vendor providing the best value.
 - (C) For larger, more complex IT purchases, the Purchasing Office works with the County Attorney's Office to prepare a supplemental contract to ensure that the best interest of the County are achieved.
 - (D) The User Department should plan their procurements to allow sufficient time to strictly comply with the process described in this section.
- (4) If the purchase is from a vendor who is part of the GoDIREct program, the County issues the purchase order directly to the vendor and pays the vendor directly. If the purchase is to a vendor that is not part of the GoDIREct program, the County issues the purchase order to DIR, which authorizes a separate purchase order to the vendor.

(b) DBITS:

- (1) Deliverables-Based IT Services (DBITS) are available through DIR vendors for the following services: application development, application maintenance and support, business intelligence (BI) and data warehouse, enterprise resource planning (ERP), independent verification and validation (IV&V), information technology assessments and planning, project management, service oriented architecture (SOA), and technology upgrade/migration and transformation.
- (2) The Purchasing Office submits a statement of work to vendors offering the technology category requested, and negotiates pricing of deliverables and terms and conditions directly with a vendor. The vendor may begin work only after receiving a statement of work signed by both the County and the vendor, and a purchase order issued by the Purchasing Office.

(c) IT Staffing Services:

- (1) IT Staffing Services contracts provide for temporary IT staffing augmentation services on a time (hourly) basis. Contract staff renders services and are paid on an hourly basis. IT Staffing Service contracts do not provide for deliverables-based outsourced systems integration or application development projects.
- (2) The Purchasing Office issues a purchase order to the staff augmentation vendor before services are provided.

[32.232-32.240 Reserved for Expansion]

Subchapter N. Cooperative Purchasing Agreements

32.241 Background and Statutory Authority

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. Texas Government Code, Section 791.025(c) states that a local government that purchases goods and any services reasonably required for the installation, operation, or maintenance of those goods under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and their services. The County has a variety of interlocal agreements.

32.242 Policy

For each interlocal agreement that has been approved by Commissioners Court to purchase goods or services, the Purchasing Agent will assign a number to that agreement and enter it into SAP for tracking and payment purposes. Previously-approved interlocal agreements may be added to SAP on request. The Purchasing Office will add revenue-generating interlocal agreements to SAP to aid in tracking these types of interlocal agreements.

32.243 Definitions

- (a) "Local cooperative organization" means an organization of governments established to provide local government access to contracts with vendors for the purchase of materials, supplies, services, or equipment.
- (b) "Local government" means a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of any state.

32.244 Official Representative

- (a) The Purchasing Agent acts for Travis County at the direction of Commissioners Court in all matters relating to all cooperative purchasing programs, including the purchase of goods and services from a vendor under any contract.
- (b) The County participates in the purchasing programs of various local, state, and national purchasing cooperatives such as Houston Area Council of Governments (H-GAC), Texas Association of School Boards (BuyBoard), The Cooperative Purchasing Network (TCPN), and Federal Supply Schedules. Before using any cooperative, the Purchasing Agent researches and recommends cooperatives to the Commissioners Court. The Commissioners Court approves an interlocal agreement acknowledging the terms and conditions for using each cooperative, including any fee schedules, and authorizes the Purchasing Agent to make purchases under the terms of the interlocal agreement.

32.245 Procedure

- (a) To initiate this process, the User Department may research goods and services on the approved cooperative's website to determine if the needed goods or services are available from the cooperative.
 - (1) Based on its research, the User Department submits a shopping cart and identifies in the comments that the good or service is available from a cooperative.
 - (2) The Purchasing Office determines whether or not the requested goods or services are available from a specific cooperative. If available, the Purchasing Office compares prices among cooperatives and local vendors to obtain the best value.
 - (3) The Purchasing Office works with the User Department to determine best value and issues a purchase order with the selected vendor that provides the best value.
- (b) The Purchasing Agent either submits requisitions to the applicable cooperative or electronically sends purchase orders directly to vendors using the processes defined by the specific cooperative.
- (c) The Purchasing Agent monitors vendor compliance with all the conditions of delivery and the quality of the purchased goods and services.
- (d) The Purchasing Agent may sign and deliver all necessary documents for purchases under cooperative purchasing programs made on behalf of the County.

32.246 Contract Award

The Purchasing Agent may execute all contracts for purchases through interlocal agreements that are procured in compliance with this chapter, including purchases in excess of \$50,000, provided funding for the purchase has been approved by the Commissioners Court and the interlocal agreement was approved by the Commissioners Court.

32.247 Federal Supply Schedules

- (a) Texas Local Government Code Section 271.103 states that a local government that purchases goods and services available under federal supply schedules of the United States General Services Administration to the extent permitted by federal law satisfies the requirement of the local government to seek competitive bids for the purchase of those goods and services.
- (b) Under the Cooperative Purchasing Program, state and local government entities may purchase a variety of Information Technology (IT) products, software, and services from contracts awarded under GSA Federal Supply Schedule 70, Information Technology, as well as from contracts under the Consolidated (formerly Corporate Contracts) Schedule containing IT special item numbers.
- (c) State and local government entities may also purchase alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement

and security equipment, marine craft and related equipment, special purpose clothing, and related services from contracts awarded under GSA Federal Supply Schedule 84, Total Solutions for Law Enforcement, Security, Facility Management Systems, Fire, Rescue, Special Purpose Clothing, Marine Craft, and Emergency/Disaster Response.

- (d) The GSA's Disaster Purchasing Program allows the County to buy supplies and services directly from all GSA Schedules to facilitate recovery from major disaster or facilitate disaster preparation, response and recovery.

[32.248-32.250 Reserved for Expansion]

Subchapter O. Procurement of Professional Services

32.251 Background and Statutory Authority

- (a) In procuring professional services, the County must comply with two statutes: the Professional Services Procurement Act (Texas Government Code Chapter 2254) and the County Purchasing Act (Texas Local Government Code Chapter 262). There are two kinds of professional services:
 - (1) Those professional services specifically listed in the Professional Services Procurement Act; and,
 - (2) Those "other" professional services that are not specifically listed which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent relies on court cases and Texas Attorney General opinions to determine what services may be included in these "other" professional services.
- (b) "Professional services" is defined in Texas Government Code Chapter 2254 as:
 - (1) Those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, real estate appraising or professional nursing, or
 - (2) Provided in connection with the professional employment or practice of a person who is licensed or registered as an architect, optometrist, physician, surgeon, certified public accountant, land surveyor, landscape architect or professional engineer, state certified or state licensed real estate appraiser, or registered nurse.
- (c) Contracts for the procurement of these professional services may not be awarded on the basis of competitive bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

32.252 Professional Services Procurement Act

To ensure professional firms a fair and equal opportunity to do business with the County, and to ensure that the services of the most qualified professional are obtained, professional services are procured using the Request for Qualifications (RFQ) process.

- (1) RFQ Procedure:
 - (A) Departments forward a recommendation memorandum to the Purchasing Agent when professional services are required. The memorandum identifies the following:
 - (i) Scope of work
 - (ii) Qualification and experience requirements
 - (iii) Project description and deliverables
 - (iv) Time frames
 - (v) Budgeted amount and budget line items
 - (vi) Suggested professionals
 - (B) Based on the information provided in the memorandum, applicable state laws, and all relevant facts, the Purchasing Agent makes a determination about implementing a formal RFQ or an informal procurement process.
 - (C) Unless specifically exempted by the Commissioners Court, all professional services anticipated to cost more than \$50,000 are procured using the formal RFQ process. The Purchasing Agent submits all exemption orders to the Commissioners Court for approval.
- (2) Purchase Memorandum:
 - (A) Either a memorandum submitted to the Purchasing Agent, signed by the Official or County Executive or a direct e-mail from the Official or County Executive serves as the initial requisition. The memorandum must include the budget line items from which the purchase is funded or an explanation that is acceptable to the Purchasing Office about how funding is obtained before the Purchasing Office prepares the RFQ. Requirements (scope of work) and necessary qualifications should be forwarded electronically to the Purchasing Office. If requirements and necessary qualifications are not submitted, the Purchasing Office and the User Department jointly develop them.
 - (B) The User Department follows up the memorandum request with entry of a shopping cart or funds reservation document into SAP.
- (3) Notice:
 - (A) After development of requirements and qualifications and preparation of the RFQ, a notice of the proposed purchase is published by the Purchasing Office unless Commissioners Court approval of the RFQ is required. The Commissioners Court must approve advertising for any RFQ for which there is not adequate funding in the budget or for which the Planning and Budget Office has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.
 - (B) Notice of a proposed purchase is published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the

solicitation opening. To ensure firms have sufficient time to complete and return their solicitation, Purchasing generally advertises for 21 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

- (4) Amendment of RFQ:
 - (A) The Purchasing Agent may extend the response opening date on the notice of an RFQ if an error is discovered, or the nature of the services requires an extension. The Purchasing Agent may amend an RFQ to clarify its original intent or to correct clerical errors if:
 - (i) Inquiries about the meaning a substantive requirement or other critical element of the RFQ indicate the need for an amendment;
 - (ii) Changes are so insignificant that they are not likely to matter to the firm in determining ability to respond; or
 - (iii) The amendment does not change the general scope of the RFQ.
 - (B) There must be at least three days between the date of the amendment and the opening date specified in the notice. If less than three days exist, the opening date should be extended to allow for a minimum of three days between the date of the amendment and the opening date specified in the amendment.
- (5) Pre-Proposal Conference. The Purchasing Agent works with the User Department to determine if a pre-proposal conference is necessary. Purchasing staff manages the pre-proposal conference and requests that the User Department makes staff available to answer questions at the conference.
- (6) Receipt of Responses:
 - (A) To ensure confidentiality, the Purchasing Office adheres to the following procedures when receiving responses:
 - (i) The Purchasing Agent receives all responses as specified by the RFQ.
 - (ii) All responses are stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Office serves as the official time clock for identifying the date and time responses is received in the Purchasing Office.
 - (iii) Responses are not accepted after the opening time on the day of opening. All responses offered after the opening time are returned unopened to the offeror with a letter from the Purchasing Agent notifying the offeror that the submitted response arrived after the due date and time.
 - (iv) The Purchasing Office records the name of the firm's representative submitting the response, as well as the time and date the response was submitted. If a response is received by

mail, express mail, or courier, the method of delivery is reflected in the record.

- (v) After responses are received, the Purchasing Office keeps them secured until the opening date. The responses are to be received sealed and remain sealed until they are opened by the Purchasing Office on the advertised date and time.
- (vi) On rare occasions, responses that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, another employee of the Purchasing Office is immediately called to act as a witness that the details of the response were not reviewed and the response was sealed again by an employee, and the event is documented.

- (B) The above process is undertaken in a manner that precludes any perception of favoritism and to avoid revealing response information. Publicly receiving sealed proposals and recording the submission of requested proposals inhibits both the ability to and the perception that the Purchasing Office is manipulating the receipt of bids.

(7) Opening of Responses:

- (A) Sealed responses are opened and documented by the Purchasing Office. Only the names of firms submitting responses are announced. The Purchasing Agent opens the responses at the date and time specified in the notice.
- (B) Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets or proprietary information that may be protected from disclosure under the Texas Public Information Act. Disclosure of all information obtained from a firm is subject to the provisions of the Texas Public Information Act.

(8) Confidentiality Memorandum:

- (A) As described in this chapter the Purchasing Office uses a confidentiality memorandum to ensure that information in a proposal is kept confidential until contract award. Before the evaluation of confidential proposals begins, the Purchasing Office sends a memorandum to evaluation committee members for signature and certification.
- (B) The memorandum contains requirements which the evaluation committee member is required to adhere until the Commissioners Court approve an award. This memorandum includes disclosure of any potential conflict of interest, and restricts all communications during the evaluation process, including any attempted communication by the firm directly with evaluation committee members.

- (9) Evaluation:
- (A) The Purchasing Office supervises the evaluation process performed by the User Department or evaluation committee to ensure that it is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional evaluation assistance provided during the evaluation process by the Planning and Budget Office, Auditor, ITS or Records Management, if applicable.
 - (B) The RFQ must specify the evaluation factors to be used to determine minimum qualifications and demonstrated experience. Price is included as an evaluation factor if the services sought do not include professional architectural, engineering or land surveying services, which are discussed separately in this chapter. Evaluators may use only the specified evaluation factors in evaluating the responses. Purchasing staff leads the evaluation team and is responsible for:
 - (i) Developing evaluation matrix and criteria
 - (ii) Tabulating scores;
 - (iii) Calculating values; and
 - (iv) Either coordinating follow-up meetings for best price negotiations and recommending an award or discontinuing the process.
- (10) Recommendation for Award:
- (A) After the evaluation of proposals has been completed, Purchasing forwards an evaluation summary to the Official or County Executive for concurrence with the selection and requests that the Official or County Executive submit a memorandum to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners Court.
 - (B) For high visibility or high dollar value procurements, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.
- (11) Written Contract:
- (A) Before any services are rendered, a written contract for professional services is prepared, approved and signed by either the Purchasing Agent if less than \$50,000, or Commissioners Court if more than \$50,000.
 - (B) The Purchasing Agent may execute any contracts for professional services that are procured in compliance with the Professional Services Procurement Act and in which the cost of services does not exceed \$50,000 if:
 - (i) The Planning and Budget Office verifies that the services sought have been approved by the Commissioners Court and

- (ii) Adequate funds are budgeted for it and the County Attorney has reviewed the contract.

32.253 Architectural, Engineering and Land Surveying Services

- (a) Architectural, engineering and land surveying services are the only services where price cannot be used as an evaluation factor. When procuring architectural, engineering or land surveying services, the County follows the RFQ process described above and adds a second step.
 - (1) First, respondents to the RFQ are evaluated. The Purchasing Office works with the evaluation committee to develop a rank ordering of respondents. Based on the committee's evaluation of responses, they identify the "most highly qualified" firms ("short list") with whom the County wishes to negotiate.
 - (2) The Purchasing Agent recommends to Commissioners Court the most highly qualified firm and requests authorization to negotiate price on the basis of demonstrated competence and qualifications.
 - (3) The Purchasing Agent and Official or County Executive enters into negotiations for a contract at a fair and reasonable price.
- (b) Evaluation
 - (1) The Purchasing Office supervises the evaluation process performed by the User Department or evaluation committee to ensure that it is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional evaluation assistance provided during the evaluation process by the Planning and Budget Office, Auditor, ITS or Records Management, if applicable.
 - (2) The RFQ must specify the evaluation factors to be used to determine minimum qualifications and demonstrated experience. Evaluators may use only the specified evaluation factors in evaluating the responses. Purchasing staff leads the evaluation team and is responsible for:
 - (A) Developing evaluation matrix and criteria;
 - (B) All communications with the proposers;
 - (C) Tabulating scores;
 - (D) Determining ranking, and
 - (E) Coordinating negotiations with top ranked firm.
 - (3) If the County is unable to negotiate a satisfactory contract with the most highly qualified proposer, negotiations formally end with that proposer. The next most highly qualified proposer is then asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.
- (c) Recommendation for Award
 - (1) After the evaluation of qualifications and demonstrated experience has been completed, Purchasing forwards an evaluation summary to the Official or County Executive for concurrence with the selection and requests that the

Official or County Executive submit a memorandum to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners Court.

- (2) For high visibility or high dollar value solicitations, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.
- (3) The Purchasing Agent works with the Official or County Executive to develop the recommendation for award and present it for approval to the Commissioners Court.

(d) **Written Contract.** Before any services are rendered, a written contract for professional services is prepared, approved and signed by either the Purchasing Agent if less than \$50,000, or Commissioners Court if more than \$50,000. The Purchasing Agent may execute any contracts for professional services that are procured in compliance with the Professional Services Procurement Act and in which the cost of services does not exceed \$50,000 if the Planning and Budget Office verifies that the services sought have been approved by the Commissioners Court and adequate funds are budgeted for it and the County Attorney has reviewed the contract.

(e) **Pre-Qualified List.** The County may establish a pre-qualified list of firms that, on the basis of demonstrated competence and qualifications, are the most highly qualified firms to provide architectural, engineering or land surveying services to complete small projects as the need arises. These firms may be used to assist the County to:

- (1) Procure architectural, engineering or land surveying services for small projects (\$100K or less in fees),
- (2) Respond to health and safety issues that require immediate attention,
- (3) Expedite unanticipated work requests for architectural, engineering or land surveying services as they arise, and
- (4) Reduce the cost and time required to solicit services and award contracts for multiple small projects.

32.254 Other Professional Services

(a) "Other" personal or professional services are those services usually referred to as a professional service, but not specifically listed in the Professional Services Procurement Act. Various court opinions have stated that these "other" professional services are services requiring technical skill and expertise; labor and skill which is predominantly mental or intellectual, rather than physical or manual; or services requiring special skill and expertise. "Other" personal services have been defined as services that must be performed by a particular person and, by the terms of the contract, no substitutions are allowed. Examples include computer programmers, lawyers, and facilitators.

(b) To ensure firms a fair and equal opportunity to do business with the County, and to ensure the services are provided by the most qualified person or professional,

"other" personal or professional services must be procured using the Request for Services (RFS) process unless the contract is for less than \$50,000 or the Commissioners Court approves another procedure.

- (1) Exceptions. The Sheriff is authorized to negotiate and execute contracts with independent contractors for the following other professional services if the firms are selected on the basis of qualifications, the contracts are within budget and the County Attorney and the Purchasing Agent review the contract:
 - (A) nursing in the corrections facilities,
 - (B) instructors for the sheriff's academy,
 - (C) chaplains for the corrections facilities, and
 - (D) prisoner detention services.
- (2) RFS Procedure:
 - (A) User Departments forward a shopping cart or memorandum to the Purchasing Agent when "other" personal or professional services are required. The memorandum identifies the following:
 - (i) Scope of work,
 - (ii) Qualification and experience requirements,
 - (iii) Project description and deliverables,
 - (iv) Time frames,
 - (v) Budgeted amount and budget line items,
 - (vi) Suggested persons or professionals, and
 - (vii) Selection criteria.
 - (B) Based on the anticipated costs, information provided in the memorandum, applicable state laws and other relevant facts, the Purchasing Agent determines whether a formal RFS or an informal procurement process will be recommended to the Commissioners Court.
 - (C) Unless specifically exempted by the Commissioners Court, all personal or professional services anticipated to cost over \$50,000 are procured using the formal RFS process. The Purchasing Agent submits all exemption orders to the Commissioners Court. Unless there is an urgent need for the services, the exemption order is submitted to the Commissioners Court for approval before selecting and negotiating with any vendors.
- (3) Purchase Requisition:
 - (A) Either a shopping cart or memorandum signed by the Official or County Executive and submitted to the Purchasing Agent or a direct e-mail from the Official or County Executive serves as the initial requisition. The memorandum must include the budget line items from which the purchase is funded or an explanation about how funding is obtained that is acceptable to the Purchasing Office before the

Purchasing Office prepares the RFS. Requirements (scope of work) and necessary qualifications should be forwarded electronically to the Purchasing Office. If requirements and necessary qualifications are not submitted, Purchasing and the User Department jointly develop the requirements.

- (B) The User Department follows up the memorandum request with entry of a shopping cart or funds reservation in SAP.

(4) Notice:

- (A) After development of requirements and RFS preparation, the Purchasing Office usually publishes a notice of the proposed purchase unless Commissioners Court approval of the RFS is required. The Commissioners Court must approve advertising for any RFS if PBO has not verified that the services sought have been approved by the Commissioners Court and the Court has placed adequate funding in the budget.
- (B) Notice of a proposed purchase is generally published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the response opening. To ensure firms sufficient time to complete and return responses, Purchasing generally advertises for 21 days. If necessary, advertising time can be extended or decreased.

(5) Amendment of RFS:

- (A) The Purchasing Agent may extend the response opening date on an RFS notice if an error is discovered, or the nature of the services requires an extension. The Purchasing Agent may amend an RFS to clarify its original intent or to correct clerical errors:
 - (i) If inquiries about the meaning of a substantive requirement or other critical element of the RFS indicate the need for an amendment;
 - (ii) If the changes are so insignificant that they are not likely to matter to the firm in determining ability to respond; or
 - (iii) If the amendment does not change the general scope of the RFS.
- (B) There must be at least three days between the date of the amendment and the opening date specified in the notice. If less than three days exist, the opening date should be extended to allow for three days between the date of the amendment and the opening date specified in the amendment.

(6) Pre-Response Conference:

- (A) The Purchasing Agent works with the User Department to determine if a pre-response conference is necessary.

- (B) Purchasing staff manages any pre-response conference that is held and requests that the User Department make staff available to answer questions at the conference.
- (7) Receipt of Responses:
- (A) To ensure confidentiality, the following procedures are adhered to when receiving responses:
 - (i) The Purchasing Agent receives all responses as specified by the RFS.
 - (ii) All responses are stamped with the time and date received. The "Date Stamp Clock" in the Purchasing Office serves as the official time clock for the purpose of identifying the date and time responses was received in the Purchasing Office.
 - (iii) Responses are not accepted after the opening time on the day of opening. All responses offered after the opening time are returned unopened to the offeror with a letter from the Purchasing Agent notifying the firm that the submitted response arrived after the due date and time.
 - (iv) The Purchasing Office records the name of the firm's representative submitting the response, as well as the time and date the response was submitted. If a response is received by mail, express mail, or courier, the method of delivery is reflected in the record.
 - (v) After responses are received, the Purchasing Office keeps them secure until the opening date. The responses are to be received sealed and remain sealed until the Purchasing Office opens them on the advertised date and time.
 - (vi) On rare occasion, responses that are received in the mail or by some other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Office is immediately called to act as a witness that the details of the response were not reviewed and the response is sealed again by that employee, and the incident is documented.
 - (B) The above process is undertaken to preclude any perception of favoritism and avoid revealing response information. Publicly receiving sealed responses and recording the submission of requested responses should inhibit the ability to and any perception that the Purchasing Office is manipulating the receipt of responses.
- (8) Opening of responses:
- (A) Sealed responses are opened and documented by the Purchasing Office. Only the names of firms submitting responses are announced. The Purchasing Office opens the responses at the date and time specified in the notice. The Purchasing Agent may extend the date specified in the notice if the original RFS needs to be amended.

- (B) Responses are opened to avoid disclosing the contents to competing firms and are kept secret during the process of negotiation. All responses that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and proprietary information that may be protected from disclosure under the Texas Public Information Act. Disclosure of all information obtained from a firm is subject to the provisions of the Texas Public Information Act.
- (9) Confidentiality Memorandum:
- (A) As fully described in this chapter, the Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping all information in a response confidential until the contract has been awarded. Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to the evaluation committee members for signature and certification.
 - (B) The memorandum contains the requirements to which the evaluation committee member is required to adhere during the course of the evaluation process to keep information confidential until the Commissioners Court approves an award. The memorandum includes disclosure of any potential conflict of interest, and restricts all communications during the evaluation process, including any attempted communication by the firm to evaluation committee members during evaluation.
- (10) Evaluation:
- (A) The Purchasing Office supervises the evaluation process performed by the User Department or evaluation committee to ensure that it is conducted fairly and consistently and that the integrity of the process is maintained. Depending on the procurement, there may be additional evaluation assistance provided during the evaluation process by the Auditor, PBO, ITS, or Records Management, if applicable.
 - (B) In selecting firms to provide other personal or professional services, a User Department must base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services, as specified in the RFS.
 - (C) Evaluators use only the specified evaluation factors in evaluating the proposals. Purchasing staff leads the evaluation team and is responsible for:
 - (i) All communications with the firms;
 - (ii) Developing evaluation matrix and criteria;
 - (iii) Tabulating scores;
 - (iv) Calculating values; and

- (v) Either coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award or discontinuing the process.
 - (D) Once the evaluation is completed, Purchasing forwards an evaluation summary to the Official or County Executive for concurrence with the selection and requests that the Official or County Executive submit a memorandum back to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners Court.
 - (E) For high visibility or high dollar value solicitations, the Purchasing Agent may take the recommendations to Commissioners Court and request its approval to negotiate with top ranked firm(s) before requesting best and final offers.
- (11) Negotiations and Best and Final Offer (BAFO):
- (A) The Purchasing Agent supervises all negotiations. All conversations with responders must be coordinated with the Purchasing Agent. A member of the Purchasing Office should be present for all discussions with firms. Departments that contact firms without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.
 - (B) All firms must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of responses and submittal of a BAFO.
 - (C) After the negotiations are complete, the Purchasing staff may request that qualified respondents submit a BAFO by a specified date and to a specified location. Based on the negotiations, the BAFO must allow the firm to:
 - (i) Modify the initial offer;
 - (ii) Update the response based on any changes the User Department or County has made; and
 - (iii) Include any added inducements that may improve the overall score based on the evaluation plan of the RFS.
- (12) Recommendation for Award. The Purchasing Agent works with the Official or County Executive to develop the recommendation for award and present it for approval by Commissioners Court.
- (13) Written Contract:
- (A) Before any services are rendered, a contract for "other" personal or professional services shall be in writing, approved, and signed by either the Purchasing Agent, if less than \$50,000, or the Commissioners Court, if more than \$50,000. If less than \$50,000, the Purchasing Agent determines which person or professional is selected based on the recommendation of the User Department. The Purchasing Agent may execute any contracts for "other" personal or

professional services that are procured in compliance with the Purchasing Act and in which the cost of services does not exceed \$50,000 if the Planning and Budget Office verifies that the services sought have been approved by the Commissioners Court and adequate funds are budgeted for it and the County Attorney has reviewed the contract.

(B) The Purchasing Agent may execute contracts for legal representation based on the attorney selected by the client on the recommendation of the County Attorney if the cost does not exceed \$50,000.

(14) Vendor "Pool":

(A) If, as a result of an RFS, the County enters into contracts with more than one qualified professional firm, a pool of these professionals is created to provide services as needed.

(B) The user department and the Purchasing Office must ensure that an RFQ or RFS, as appropriate, is distributed at least once every four years so that newly qualified professionals may be added to the pool.

(C) This method is used mainly for geotechnical testing services and brokerage firms. Other services may be considered for development of a pool from time to time, if needed.

32.255 Disclosure of Former Employees

To be considered responsive, a person who offers to provide personal or professional services to a User Department who has been employed by the County at any time during the two years before making the response must disclose the following in the response:

- (1) The nature of the previous employment with the County;
- (2) The date the employment was terminated; and
- (3) The annual rate of compensation at the time of termination.

[32.256-32.259 Reserved for Expansion]

Subchapter P. Construction Procurement

32.260 Purchasing Statutes

- (a) Subsection 262.011(e) of the Texas Local Government Code states that "The County Purchasing Agent shall supervise all purchases made on competitive bid..." Construction procurement is defined in Texas Government Code Chapter 2269 and Local Government Code Chapter 271.
- (b) Construction procurement is consistent with other procurement procedures in this chapter and with pertinent statutes. The Purchasing Agent supervises all construction procurements. All competitive procurements are accomplished by the following processes.

32.261 Purchase Requisition

- (a) A memorandum or email submitted to the Purchasing Agent, signed by the Official or County Executive, serves as the initial notification that a competitive solicitation is needed. An electronic copy of the technical specifications is submitted with the memorandum to assist in the development of the project manual. Before the project manual and plans are submitted to the printer for copying, the Purchasing Agent and County Attorney review and approve the procurement documents and General Requirements. The Purchasing Agent reviews the specifications for compliance with the Purchasing Act and the County Attorney reviews them for legal considerations.
- (b) When the sheet size format is 11"x17", the Purchasing Office prints the project manual and plans. The User Department is responsible for printing plans when the sheet size is 24"x36" or larger. A minimum number of project manuals are printed, as the preferred method for distribution of construction project documents and subsequent receipt of solicitation responses is electronically, through BidSync.
- (c) The User Department must allow the Purchasing Office at least ten workdays to develop the solicitation, circulate it for the appropriate reviews, and print it. During this time, Purchasing develops a Procurement Schedule detailing the milestones of the solicitation, including dates and times for the conference preceding the solicitation response opening, opening, pre-award conference, if applicable, and pre-construction conference. The Purchasing Office assigns a solicitation number and contract number to the project when loading the project in BidSync for issuance.

32.262 SAP Use

The Purchasing Office enters all construction contracts into SAP. The County uses SAP to process and track payments to the prime contractor. Payments to HUB subcontractors are also tracked using a separate software application maintained by the HUB Program Coordinator.

32.263 Solicitation Notice

- (a) The Purchasing Office publishes the advertisement for the solicitation, which must include the following:
 - (1) Description of work;
 - (2) Location at which the solicitation documents, plans, specifications, or other data may be examined without charge by all potential respondents.
 - (3) The location at which plans and specifications may be obtained and the amount of the deposit required;
 - (4) The County's goal for HUB contractor and subcontractor participation;
 - (5) Time and place for submitting responses;
 - (6) Time and place of response opening;
 - (7) The method of payment. If payment is by certificate of obligation, the advertisement must state either that the respondent must accept certificates,

or that the respondent must elect to accept certificates or assign them to a financial institution with which County has made an arrangement.

- (b) If the contract is to be awarded on a unit price basis, the notice must also include the approximate quantities of the goods and services needed and the quantities must be based on the best available information.
- (c) Notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the solicitation response opening. To ensure respondents have sufficient time to complete and return their responses, Purchasing generally advertises for 21 days. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

32.264 Consideration of Safety Records

- (a) If the solicitation states that the safety record may be considered in determining the responsibility of the respondent and includes the Safety Record Questionnaire in the solicitation, County takes into account the respondent's safety record in determining the respondent's responsibility (for low-bid procurements) or ability to provide the "best value" to the County (for all other project delivery methods). The safety record includes compliance with requirements relating to the safety of the environment as well as the safety of job site conditions. In relation to the safety record, respondent must include not only the respondent, but also the firm, corporation, partnership or institution represented by the respondent or anyone acting for such a firm corporation, partnership or institution.
- (b) The definition and criteria for determining the safety record of a respondent:
 - (1) If the respondent reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the respondent for serious violations of OSHA regulations within the past three (3) years, County will, at its discretion, determine whether to disqualify the respondent.
 - (2) If the respondent reveals more than one (1) case in which respondent has received a citation from an environmental protection agency for violations within the past five (5) years, County will, at its discretion, determine whether to disqualify the respondent.
 - (3) Environmental protection agencies include the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ) and its past associated agency, the Texas Natural Resources Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or

registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30 TAC, Chapter 60.2 (c) (1) and (2).

- (4) If the respondent reveals that the respondent has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, County will determine whether to disqualify the respondent.

32.265 Bonding

- (a) Bonds are not required for construction contracts having a contract sum less than \$25,000.
- (b) Bid Bond
 - (1) Bid bonds are generally not required from any respondent whose rates are subject to regulation by a state agency. However, bid bonds may be required with all bids, or other procurement responses, over \$50,000. If the Purchasing Agent decides that a bid bond is required for a particular contract, the solicitation states that a bid security, usually in the amount of 5% of the contract price, is required and that it must be executed by a surety company authorized to do business in Texas. The bid security may be in the form of a bond, company or cashier's check, or money order.
 - (2) Letters of Credit may not be substituted for any bid bonds related to a public works project, if the contract sum exceeds \$25,000.
- (c) Performance Bond
 - (1) For all contracts having a contract sum in excess of \$100,000 for the construction, repair, or alteration of a public work or the prosecution or completion of any public work, before commencing work, the vendor must execute a performance bond that is:
 - (A) Payable to Travis County, Texas,
 - (B) In the full amount of the contract sum,
 - (C) Conditioned on faithful performance of the work in accordance with the plans, specifications, and contract documents,
 - (D) Solely for the protection of Travis County Texas,
 - (E) Executed by a corporate surety or sureties in accordance with the Insurance Code, and
 - (F) In a form approved by the Commissioners Court.
 - (2) Any performance bond that is furnished by a vendor in attempted compliance with the requirements of Texas Government Code, Chapter 2253 is construed as if it conforms to that chapter in relation to rights created, and limitations on the bonds and remedies provided.

- (3) Letters of Credit may not be substituted for any performance bonds related to a public works project if the cost of the project exceeds \$25,000.

(d) Payment Bond

- (1) For all contracts in excess of \$25,000 for the construction, repair, or alteration of a public work or the prosecution or completion of any public work, the vendor must execute a payment bond before commencing work. The payment bond must be:
 - (A) Solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply labor or material for a public work,
 - (B) Payable to Travis County, Texas,
 - (C) In the full amount of the contract,
 - (D) Executed by a corporate surety or sureties in accordance with the Insurance Code, and
 - (E) In a form approved by the Commissioners Court.
- (2) Payment bonds must be effective from commencement of performance until the end of the fourth month after all work for the project is completed, unless releases are obtained from all subcontractors and materialmen. Any payment bond that is furnished by a contractor in attempted compliance with the requirements of Texas Government Code Chapter 2253 are construed as if it conforms with that chapter in relation to rights created, limitations on the bond, and remedies provided.
- (3) A bond required under this section must clearly and prominently display on the bond or on an attachment to the bond:
 - (A) The name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or
 - (B) The toll-free telephone number maintained by the Texas Department of Insurance under Texas Insurance Code, Chapter 521, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.
- (4) The County may not require a contractor for any public work project to obtain a surety bond from any specific insurance or surety company, agent, or broker.
- (5) Letters of Credit may not be substituted for any payment bonds related to a public work project if the cost of the project exceeds \$25,000.

- (e) The contractor must provide payment and performance bonds within seven calendar days after receipt of the Notice-of-Award letter. These are reviewed by Purchasing, with originals being maintained in the Purchasing Office. Copies are provided to the user department upon request.

32.266 Pre-Bid (or Response Equivalent) Conference

The Purchasing Office provides detailed information on the requirements of the solicitation to ensure compliance with purchasing procedures and the User Department provides technical information to ensure compliance with technical standards. Purchasing schedules the pre-bid (or response equivalent) conference and assists in conducting the conference by doing the following:

- (1) Have all attendees sign the attendance roster.
- (2) Provide a detailed agenda which:
 - (A) Provides a brief introduction of the project title, scope of work, and performance period.
 - (B) Indicates whether there have been any addenda issued, and if so, provides all attendees and project document holders with a copy.
 - (C) Discusses the Purchasing Office role in the procurement and administration process.
 - (D) Establishes a “cut-off” date for questions and requests for clarifications, as well as a final date for issuance of addenda.
 - (E) Discusses the Historically Underutilized Business (HUB) requirements as outlined in the appropriate section of the project manual.
- (3) Have the project engineer, architect or project manager discuss the specifics of the project, including review of the plans and specifications, and allow for a question-and-answer session.
- (4) Determine any issues discussed during the conference that require issuance of an addendum. The Purchasing Agent may extend the date specified in the notice if needed. The Purchasing Office issues the amendment only if there are at least five days between the date of the addendum and the date specified for response opening. If less than five days exist, the opening date should be extended to allow for a minimum of five days between the date of the addendum and the opening date specified in the addendum.
- (5) Have the user department provide Purchasing with changes to the technical documents (i.e., changes or additions to the plans and/or specifications).
- (6) Prepare the addendum using standard forms and distribute the addendum to all attendees and project document holders.
- (7) Record the minutes of the meeting and distribute them to all attendees.

32.267 Receipt of Competitive Solicitation Responses

- (a) The following procedures are adhered to when receiving solicitation responses and, in general, apply to all construction procurements, including those consisting of more than one solicitation phase (e.g., an RFQ followed by an RFP):
 - (1) The Purchasing Office receives all responses as specified by the solicitation.
 - (2) Responses are not accepted after the opening time on the day of response opening. All responses offered after the opening time are returned unopened

to the respondent with a letter from the Purchasing Agent notifying the respondent that the submitted response arrived after the due date and time.

- (3) The Purchasing Office records the name of the vendor submitting the response, as well as the time and date the response was submitted. If a response is received by mail, express mail, or courier, the method of delivery is reflected in the record.
 - (4) After responses are received, the Purchasing Office provides a secure place to hold the responses until the opening date. The responses are to be received sealed and remain sealed until the Purchasing Office opens them in a public forum on the advertised date and time.
 - (5) On occasion, responses that are received in the mail or by some other independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Office is immediately called to act as a witness that the details of the response, especially the price, were not reviewed, that the response was sealed again by that employee, and that incident has been documented.
- (b) The above process shall be undertaken in a manner that precludes any perception of favoritism and avoids revealing prices or any response information. Publicly receiving sealed responses and recording the submission of requested responses ensures that the Purchasing Office is not, and is not perceived as, manipulating the receipt of responses.

32.268 Public Opening of Solicitation Responses

- (a) The Purchasing Office publicly opens and documents sealed solicitation responses on the date, time and place specified in the notice.
 - (1) Preliminary response tabulations, if applicable, are provided to the public upon request.
 - (2) The Purchasing Office and the user department determine who is responsible for creating the response tabulation and, if it is the User Department, then the User Department provides a copy to the Purchasing Office for distribution to the general public.
 - (3) For those responses that contain numerous line items (e.g., bids), a tabulation that includes the total response amount, excluding individual line item amounts per respondent, can be provided immediately after response opening.
 - (4) Requests for an all-inclusive response tabulation are honored after the tabulation is completed and may require at least four County business days.
- (b) The Purchasing Agent provides a copy to the Commissioners Court with the contract award package.
- (c) For bids, a bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

- (d) In cases of discrepancy between the price written in words and the price written in numerals, the price written in words shall govern.
- (e) If a conflict between the unit price and total contract amount/price exist, the unit price shall govern.

32.269 Evaluation of Responses

- (a) The Purchasing Office evaluates all responses with assistance from the User Department and they jointly develop a recommendation for award or contract negotiation, as appropriate, to Commissioners Court. The evaluation of responses is based on the following factors:
 - (1) For bids, the relative prices of the bids, including:
 - (A) The cost of repair and maintenance of heavy equipment if that is subject of the bid, or
 - (B) The cost of delivery and hauling if road construction equipment is the subject of the bids;
 - (2) For other solicitation responses, the factors stated in the solicitation or, for multi-phase procurements, solicitations;
 - (3) The compliance of goods and services offered with specifications; and
 - (4) The responsibility of the vendor, including:
 - (A) The vendor's past performance,
 - (B) The vendor's financial and practical ability to perform the contract, and
 - (C) The vendor's safety record if Commissioners Court has adopted a definition of safety that is stated in the solicitation.
- (b) Purchasing forwards a complete response packet to the Official or County Executive for review and award recommendation. The award recommendation and any other documentation from the User Department are submitted with the agenda request to justify the award. Purchasing is responsible for placing the item on the agenda of the Commissioners Court.
- (c) For bids, if the lowest-priced bid is not also the lowest responsible bid, clear justification for not selecting the lowest bidder must be proved to the Commissioners Court. A recommendation not to select the lowest bid must be supported by clear and concise documentation from the User Department. The documentation must include evidence and the rationale for awarding to a bidder other than the lowest bidder. A joint review of the bid by the User Department and the Purchasing Office is required.
- (d) For other solicitation responses, the procedures set forth in the solicitation(s) govern the evaluation and award process. In each case, the process adheres to the requirements of Chapter 2269, Texas Government Code.

32.270 Pre-Award Conference

- (a) To ensure the vendor understands all the requirements of the project manual and plans, and to provide the vendor the opportunity to voice any concerns or issues they may have with the project or the project documents as designed, a pre-award conference may be held prior to contract award. Any potential Value Engineering (VE) opportunities that may improve the project, offer a cost savings to the County, or provide a better method of achieving the desired goal may also be discussed at this time. The pre-award conference ensures, to the greatest extent practical, the successful performance and completion of the project.
- (b) A joint determination by the Purchasing Office and the project manager is made about the necessity of a pre-award conference.
 - (1) The Purchasing Office schedules the conference, prepares the agenda, and conducts the meeting.
 - (2) The project manager ensures that the vendor has a clear understanding of the project's technical requirements and that the solicitation response covers all requirements. The project manager also evaluates the feasibility of any suggested VE options, and addresses any issues/problems, with the project documents or design.
- (c) Pre-award conferences are normally reserved for more complex and complicated construction projects or in some instances where it is the vendor's first construction project with the County.

32.271 Contract Award

- (a) The Purchasing Agent and the Official or County Executive recommend contract award to the Commissioners Court in session. For bids, the Court:
 - (1) Awards the contract to the responsive and responsible bidder who submits the lowest and best bid for items and to the lowest responsible bidder for certain public works contracts; or
 - (2) Rejects all bids and publish a new notice if the construction project is still needed.
- (b) For other solicitation responses, award is made in accordance with the procedures set forth in the solicitation(s).
- (c) For bids, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge if:
 - (1) two responsive and responsible bidders submit the lowest and best bid for items; or
 - (2) two lowest responsible bidders submit the lowest bid for certain public works contracts.
- (d) For bids, a contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence about its responsibility. After award, the

County Judge signs the contract for the County and the Purchasing Agent returns the bid bonds of any vendor that was not awarded a contract.

- (e) After an award is made, a notice of contract award document is processed.
 - (1) An original contract, along with contract award form, is maintained in Purchasing.
 - (2) The other originals, along with a contract award form, are electronically furnished to the Contractor and the County Clerk when approved by Commissioners Court.
 - (3) Copies of all documents are furnished to the User Department, the Auditor's Office, and the County Attorney.
- (f) A Notice-of-Award ("NOA") letter, issued by the Purchasing Office, accompanies the contractor's copy of the contract. The NOA letter includes the requirements for the contractor to submit various documents, and the time period within which they must be submitted. For example, Payment Bonds, Performance Bonds, HUB documentation and an Insurance Certificate must be submitted within seven calendar days after contractor receipt of the NOA letter.
 - (1) Unless otherwise indicated, the NOA also states that Notice-to-Proceed is not issued unless the contractor submits the required documents within the specified time period.
 - (2) If the contractor does not submit the required documents within the specified time period, the County has the option of holding the bid security (bond or cashier's check) and awarding the contract to the next lowest bidder or the next-highest-ranked respondent.

32.272 Pre-Construction Conference

- (a) Purchasing schedules the Pre-Construction Conference (also known as the Pre-Performance Conference). The User Department is responsible for all technical presentations and the Purchasing Office ensures that all applicable purchasing procedures are followed. Purchasing assists in conducting the conference by:
 - (1) Having all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project;
 - (2) Discussing briefly the contract requirements, amount, and any other pertinent information about the project. The User Department technical representative is responsible for providing a thorough synopsis of contract requirements and any County policies to which contractor must adhere;
 - (3) Establishing dates for submissions of all required project documents such as material submittals, progress reports, payrolls (when applicable);
 - (4) Receiving required pre-construction commencement documents from the contractor, i.e., Performance Bond, Payment Bond, Insurance Certificate and any required HUB Program forms, if not previously provided;

- (5) Ensuring a complete understanding by all participants on all issues before adjourning; and
 - (6) Preparing minutes of the Conference, including all technical discussions and distributing them.
- (b) Purchasing works with the User Department on the timing of the issuance of the Notice-To-Proceed (NTP). After Purchasing receives all of the required documents, the user department determines when the NTP is issued. If all is in order, Purchasing issues the NTP. The NTP is not issued until all required bonds and insurance certificates have been received, reviewed, and verified with the appropriate agency (i.e., surety or insurance agency).

32.273 Contract Administration

- (a) The User Department is responsible for monitoring and documenting contractor performance and compliance and provides Purchasing with copies of this documentation, which keeps the Purchasing Office informed about all performance and compliance issues. Discussions that merely explain the interpretation of the specifications may be dealt with orally by the User Department.
- (b) If poor performance or non-compliance with the contract is evidenced, the User Department initiates written corrective action with the contractor and provides Purchasing with an advance copy of any written correspondence directing correction of a deficiency. The User Department requests Purchasing to initiate corrective action when the User Department cannot resolve the conflict through correspondence in consultation with the occupant department.
- (c) The User Department must not provide any instructions or requests for changes directly to the contractor. The User Department must provide all information necessary for the contractor to meet its needs either through the user department that is responsible for constructing the facility or the Purchasing Office. Only the User Department's project manager or the Purchasing Agent has the authority to give any directions directly to the contractor.
- (d) The Purchasing Agent takes all steps related to correcting non-compliance with the contract but must consult with the County Attorney before taking any steps toward suspension or termination of the contract unless emergency, life safety, or property damage issues require immediate temporary work stoppage. Before any letters, notices or other communication related to termination or suspension are sent to the contractor, the contents of these must be reviewed by the County Attorney as the initial steps toward potential litigation.
- (e) Documentation of contractor performance is often overlooked and is most important if the User Department requests suspension or termination of the contract. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc. must be documented.
- (f) Contract administration duties are basic daily, weekly, and monthly activities of the Purchasing staff and must take place to ensure successful completion of the project and to ensure the County receives the goods and services for which it has

contracted. Unless otherwise noted, the following are responsibilities of the Purchasing Office:

- (1) Schedule and assist in conducting the pre-construction conference.
 - (2) Maintain a comprehensive, neat, and orderly contract file that includes all documentation related to the procurement process, including the pre-solicitation, solicitation, contract award, post award, pre-construction conference, and administration phases of the project.
 - (3) Monitor the continued insurance coverage and obtain updated certificates on a timely basis.
 - (4) If the project is federally-funded, receive and review copies of contractor payrolls to ensure payments made to contractor's employees comply with the prevailing wage rate classifications by trade that are included in the contract.
 - (5) Perform periodic visits to the construction site to perform spot labor interviews to ensure contractor compliance with prevailing labor laws.
 - (6) Receive and review copies of contractor invoices for accuracy. Discrepancies are reported to the contractor and user department for resolution. The User Department provides Purchasing with a copy of the invoice immediately upon receipt from the contractor. The Purchasing Office verifies in writing that the invoice is appropriate for payment before submitting it to the County Auditor for payment.
 - (7) Maintain and monitor correspondence. The User Department may hold oral discussions with the contractor that merely explain or interpret the specifications. All correspondence concerning major issues involving non-compliance between the contractor and the County are directed through the Purchasing Office. This ensures that the Purchasing Office is aware of any directives being issued to the contractor or any potential problems that may occur in the performance of the contract.
- (g) In emergency situations, or those regarding minor issues, correspondence may be issued directly to the contractor through the User Department. However, Purchasing must be provided a copy of the correspondence immediately. The professional judgment of the User Department representative determines what constitutes an emergency, and what is considered to be a minor issue. If it appears that the level of non-compliance may result in a suspension or termination of the contract, the Purchasing Agent must seek the advice of the County Attorney before sending a notice to show cause not to terminate or placing the contract on the agenda for the Commissioners Court to authorize termination.

32.274 Change Orders

- (a) The Purchasing Agent, on the recommendation of the Official or County Executive responsible for the project, may approve change orders to construction contracts.

- (b) The Purchasing Agent may modify contracts at any time, in writing, if the changes are within the general scope of the contract, including changes to any of the following:
 - (1) Drawings, designs, or specifications;
 - (2) Correction of errors of a general administrative nature or other mistakes;
 - (3) Increases or decreases in the quantity of items purchased;
 - (4) Increases or decreases in cost of \$50,000 or less; as long as:
 - (A) the original contract price has not been increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made, and
 - (B) The contractor has consented to decreases in the original contract price of 18 percent or more.
 - (1) Time extensions allowed by the contract terms and conditions;
 - (2) Contract name changes not involving a change in Taxpayer Federal ID; and
 - (3) Assignments of payment.
- (c) Negotiations of change orders, particularly those that result in an increase in contract price or performance period, require that the Purchasing Office be notified on a timely basis so that the Purchasing Agent can approve it. Purchasing shall be provided a copy of the proposed change order with available supporting documentation.
- (d) A change order shall not be issued until it is determined that the necessary funds are budgeted and available. A statement to that effect should be included with the back-up documentation.

32.275 Close Out Procedures

- (a) The Purchasing Agent ensures that all applicable warranty certificates are received and safeguarded throughout the term of the warranty. The Purchasing Office provides copies of the warranty certificates to the User Department and the occupant department, if different from the User Department.
- (b) The Purchasing Agent supervises return of bonds in cooperation with the User Department to ensure that the contract is complete in all respects before these are returned. Every subcontractor and materialman must provide a release that states that the subcontractor or materialman releases Travis County from all claims arising from labor or materials provided for the project.

[32.276-32.280 Reserved for Expansion]

Subchapter Q. Exemptions to the Competitive Procurement Process

32.281 Purchasing Act

- (a) Certain goods and services may be exempted from the competitive procurement process if the Commissioners Court orders the purchase exempt.
- (b) Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants. The following is a list of these circumstances:
 - (1) Goods and services that must be purchased in a case of public calamity, if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the County;
 - (2) Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
 - (3) Goods and services necessary because of unforeseen damage to public property;
 - (4) Personal or professional services;
 - (5) Work performed and paid for by the day, as the work progresses to a maximum of 20 days within any three-month period;
 - (6) Any land or right of way;
 - (7) Goods and services that can only be obtained from one source (sole source), including:
 - (A) Goods and services for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
 - (B) Films, manuscripts, or books;
 - (C) Electric power, gas, water, and other utility services; and
 - (D) Captive replacement parts for equipment;
 - (8) Food goods if purchased after solicitation of at least three bids by telephone or written quotation at intervals specified by the Commissioners Court;
 - (9) Personal property sold at auction by a state licensed auctioneer, in a going out of business sale held in compliance with the Texas Business and Commerce Code;
 - (10) Personal property sold by a political subdivision, state agency or federal government entity;
 - (11) Work performed under a community and economic development contract under section 381.004 of the Texas Local Government Code;

- (12) Renewal of an equipment lease or equipment maintenance agreement if the lease was competitively bid within the last year and the extension does not exceed one year; and
- (13) Vehicle and equipment repairs.

32.282 Public Finance Act

In addition, section 271.056 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made from funds obtained from certificates of obligation. The following is a list of these circumstances:

- (1) Goods and services that must be purchased in a case of public calamity, if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the County;
- (2) Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
- (3) Goods and services necessary because of unforeseen damage to public property;
- (4) Personal or professional services;
- (5) Work performed by the County's employees and paid for as the work progresses;
- (6) The purchase of any land, building, existing utility system, or right of way for needs and purposes authorized under the certificate of obligation;
- (7) A contract paid entirely from current funds or bond funds or a contract for which advertising was done in compliance with Chapter 271 of the Texas Local Government Code and certificates of obligation are issued to provide for a deficiency in current funds or bond funds;
- (8) The sale of a public security as defined in section 1204.001 of the Texas Government Code; and
- (9) A contract that is not required to be made in accordance with competitive bidding procedures under the County Purchasing Act.

32.283 Policy

Exemption orders must be processed through the Purchasing Agent. For purchases exceeding \$50,000, the Purchasing Agent requests the exemption order from Commissioners Court in all cases except the acquisition of interests in land for county purposes.

32.284 Procedure

The County Executive or Official submits a memorandum to the Purchasing Agent requesting an exemption from the competitive procurement process and identifying the basis for the exemption (e.g., emergency, sole source). The memorandum must state specific details and explain why an exemption from the competitive procurement process should and granted.

When possible, it should also contain the name of the vendor, goods or services covered by the order and the expected maximum cost and other relevant programmatic information justifying the exemption.

32.285 Emergency

- (a) If there is a declaration of a local state of disaster, the County Judge is authorized to approve purchases. When purchases are necessary because any other emergency situation exists, the Purchasing Agent must be contacted to ensure compliance with the Purchasing Act. An emergency, as used in the Purchasing Act and this chapter, is an urgent unforeseeable need to make a purchase that does not result from a local state of disaster as defined in section 418.004 of the Texas Government Code.
- (b) Emergency purchases exceeding \$50,000 require an exemption order granted by the Commissioners Court before a purchase order can be issued.

32.286 Sole Source Goods and Services

- (a) Sole source goods and services require a signed statement from the Purchasing Agent about the existence of only one source, and specifically noting which type of listed sole source good or service is being purchased.
- (b) For purchases over \$50,000, the statement is submitted for acceptance by Commissioners Court, and must be reflected in the minutes of the meeting of the Commissioners Court.

32.287 Food Purchases

The Commissioners Court orders that food purchases for Travis County adult and juvenile correctional facilities are exempt from the competitive bidding requirements of the Purchasing Act if the following procedures are followed in making the purchases:

- (1) The Food Manager in the Sheriff's Office maintains a list of all vendors that wish to bid on food. To be added to the list, a vendor must request a specification package for each category of food on which the vendor wants to bid. This specification package states the approximate amounts of foods required in the specified timeframes, the quality and service level required, and the terms and conditions of the contract.
- (2) When applicable, specifications for food categories require fixed prices for one year.
- (3) The Food Manager in the Sheriff's Office solicits at least three bids by telephone, written quotation, or electronically for the following categories at the following intervals:
 - (A) Monthly: Produce
 - (B) Quarterly: Canned Goods, Meat, Groceries
 - (C) Annually or semi-annually: Dairy Products, Bread

- (4) The Food Manager, through the Purchasing Agent, submits the bids to the Commissioners Court with a recommended award of the food purchase contract(s) to the responsible bidder who submits the lowest and best bid. The Food Manager may also recommend that the Court reject all bids and repeat the bidding process if it is determined that rebidding is in the best interest of the County.
 - (A) The lowest and best bid is determined based either on the overall low bid, or on the line item low bid, whichever is more advantageous to the County.
 - (B) In recommending the responsible and lowest and best bid, the Food Manager considers the relative price of the bids, compliance of the products with the specifications, financial condition of the vendor, ability to perform the contract terms, and past performance with the County.
 - (C) If after award, any vendor does not provide the volume or quality of food or the timeliness of delivery required by the contract, the Food Manager may procure items from the next lowest vendor until the Commissioners Court considers termination of the contract if the contract is bid less frequently, or the end of the timeframe if the contract is bid weekly.
- (5) If the Food Manager has maintained documentation on the details that support the removal of a vendor from the list of those who wish to bid and presents it to the Commissioners Court, the Commissioners Court may remove a vendor from the vendor list for the following reason:
 - (A) The vendor has not bid in response to three consecutive requests for bids, or
 - (B) The vendor has not provided the volume or quality of food or timely deliver as required by the contracts.
- (6) The Food Manager encumbers funds for the contracts using a shopping cart, and the Purchasing Office issues a purchase order.
- (7) The Food Manager must maintain a record of all bids solicited, vendors contacted, and the awarded food contract for at least two years after expiration of the contract, or until audited by the County Auditor, whichever occurs first.

32.288 Real Property

The Purchasing Agent does not supervise the lease or purchase of real property. The Commissioners Court has directed that the Facilities Management Department, Transportation and Natural Resources and others with the advice of the County Attorney, handle the acquisition and administration of real property. For financial compliance, Purchasing enters the lease or real estate purchase into SAP, when provided a Commissioners Court approved agreement.

32.289 Duration of Exemption

An Exemption Order approved by the Commissioners Court for a specific contract shall be in effect until rescinded by the Court, unless a specific period of time for the exemption is authorized by the court.

[32.290-32.294 Reserved for Expansion]

Subchapter R. Equipment Leases and Maintenance Contracts and Their Renewals

32.295 Policy

- (a) The Purchasing Office processes the procurement of all equipment leases and maintenance contracts, including the exemption orders for their renewals or extensions. The Purchasing Agent supervises all negotiations for these with vendors. Purchasing maintains the contract originals and sends the User Department a copy. Purchasing staff monitor maintenance contracts for expiration dates and treat their renewal as annual term contracts.
- (b) The Purchasing Agent may execute any contract for equipment leases and maintenance contracts costing less than \$50,000 that are procured in compliance with the Purchasing Act.

32.296 Statutory Limits

The first renewal or extension of an equipment lease or of an equipment maintenance contract may be exempted from formal competitive bidding, if the Commissioners Court orders the exemption and if:

- (1) the lease or contract has gone through formal competitive bidding within the preceding year; and
- (2) the renewal or extension does not exceed one year.

32.297 Procedure

- (a) The User Department enters a shopping cart that identifies the purchase as either a lease or maintenance contract. The cart should include:
 - (1) The budget line item account,
 - (2) The serial number,
 - (3) The model number,
 - (4) The physical location of equipment, and
 - (5) The beginning and end dates of the lease and the renewal period.
- (b) In addition, if the lease or maintenance contract is sought from an authorized state contract or cooperative agreement vendor, the shopping cart should include:
 - (1) The Vendor ID number,

- (2) Part number,
 - (3) Class and item number, and
 - (4) Contact person.
- (c) For a renewal, either the original County contract number or the state term contract number should be identified in the shopping cart.
- (d) If the request is for a sole source lease or maintenance contract, the User Department must add comments or an attachment to the shopping cart justifying why it is a sole source purchase.

32.298 Technical Department Review

- (a) Records Management & Communications Resources (RMCR) and Information Technology Services (ITS) may be involved in the analysis of whether a maintenance contract or in-house repairs are more appropriate.
- (b) RMCR must be contacted on maintenance contracts for all micrographic processing and copying equipment.
- (c) ITS must be contacted for ongoing maintenance contracts on all software and hardware procurements. An ITS Assessment form should be submitted along with each agenda item for Commissioners Court action for these services.
- (d) Departments should coordinate with either RMCR or ITS on these analyses and provide a statement from the appropriate User Department that the maintenance contract sought is appropriate.

[32.299-32.304 Reserved for Expansion]

Subchapter S. Receipt of Goods and Payment

32.305 Policy

User Departments must notify the Purchasing Office if goods are not received by the due date or if damaged goods are delivered.

32.306 Verify Order

- (a) User Department employees receiving shipments must pay particular attention to the delivery ticket, to determine whether it matches the County's purchase order. The person receiving the goods must verify that all goods were shipped as stated on the delivery ticket, and if so, sign in his or her own name (a full signature in ink) on all of the appropriate receiving documentation, especially the County copy.
- (b) The User Department must acknowledge receipt and acceptance of goods delivered in satisfactory condition in SAP within five working days.
 - (1) User Departments should not accept items in SAP if damaged goods must be returned.

- (2) Timely recording receipt of goods in SAP is critical to the timely processing of payments to vendors in compliance with the Texas Prompt Payment Act.
- (c) Payment for goods or services received is overdue on the 31st day after the later of:
 - (1) The date the County receives the good under the contract.
 - (2) The date the performance of the service under the contract is complete, or
 - (3) The date the County receives an invoice for the goods or service.

32.307 Damaged Goods

- (a) When a shipment arrives, the User Department must inspect the condition of all cartons. If goods are undamaged, the User Department receiving the shipment should sign the freight bill. If goods are visibly damaged, the User Department must instruct the freight line driver to note the damage on the freight bill, and sign the freight bill.
- (b) If there is concealed damage, the User Department should save the shipping cartons so that the Purchasing Office can notify the freight line and request an "inspection and report of concealed damage". A receiving report noting the damage should be completed and matched with the receiving copy of the purchase order.
- (c) All boxes and packing materials should be kept in the event of visibly damaged and concealed damage goods shipments.
- (d) Damaged goods must be reported to the freight line within 15 days after delivery because after 15 days the freight line is no longer liable for the damage.
- (e) All goods not received properly or not in compliance with the contract should be documented and reported to the Purchasing Office as soon as possible so that the vendor can be notified and instructed about corrective action. To comply with the Texas Prompt Payment Act, the Purchasing Office notifies the vendor within 21 days of any damaged goods received to avoid interest paying to the vendor.
- (f) Damaged goods should not be returned to the freight line or the vendor, unless specifically requested to do so and then only if a claim has been filed or if authorization has been given by the vendor or the Purchasing Office.

32.308 Documentation

- (a) All receiving documentation must be maintained by the User Department for its records. All vendor invoices are sent directly to the Auditor. The User Department should provide documentation to the Auditor's Office regarding any disputes about receipt of goods.
- (b) A copy of any warranty information must be sent to the Purchasing Office. Warranty information about assets can be tracked in SAP.

[32.309-32.314 Reserved for Expansion]

Subchapter T. Contract Modifications

32.315 Policy

- (a) During the term of a contract, it may be necessary to make changes to the contract. These changes can be minor, administrative changes such as a change of address for notification or they can be substantial changes that affect the price and delivery.
- (b) There are two ways to modify a contract. One way is a bilateral modification, in which both parties to the contract agree that a modification is necessary. Both parties must sign to indicate their agreement. The second way is a unilateral modification. In this case, terms and conditions in the original contract set forth the situations under which the County may modify the contract without the contractor's consent.

32.316 Unilateral Changes

- (a) The Purchasing Agent may modify contracts, in writing, if the changes are within the general scope of the contract, including changes to any of the following:
 - (1) Drawings, designs, or specifications when the goods to be furnished are to be specially manufactured for the County in accordance with the drawings, designs, or specifications;
 - (2) The method of shipment or packing;
 - (3) The place of delivery;
 - (4) Correction of errors of a general administrative nature or other mistakes;
 - (5) Increases or decreases in the quantity of items purchased;
 - (6) Increases in the cost of \$50,000 or less if:
 - (A) The original contract price has not been increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made;
 - (B) The change can be paid from current and available funds.
 - (7) Decreases in the cost of \$50,000 or less unless the contractor has consented to a decrease of 18 percent or more;
 - (8) Time extensions allowed by the contract terms and conditions;
 - (9) Contractor's name changes not involving a change in Taxpayer Federal ID; and
 - (10) Assignments of payment.

[32.317-32.320 Reserved for Expansion]

Subchapter U. Post-Award Contract Administration

32.321 Policy

Contract administration and oversight includes four general processes:

- (1) Planning
- (2) Monitoring Contractor Performance
- (3) Payment Approval
- (4) Change Management

32.322 Post-Award Conference

- (a) A post-award conference is a meeting with the contractor and includes the principals responsible for administering the contract. The conference is typically held soon after the contract is awarded. It is an orientation for the contractor to ensure a clear and mutual understanding of all contract terms and conditions, and the responsibilities of all parties.
- (b) The conference also serves as a tool to clarify and resolve any potential misunderstandings early. Although both the contractor and County staff should be fully aware of the contract requirements, the post award conference ensures that those involved directly in the contract administration process understand all requirements of contract performance before work is begun.

32.323 Monitoring Performance

- (a) Monitoring the performance of a contractor is a key function of proper contract administration. Monitoring ensures that the contractor is performing all duties in accordance with the contract and for the User Department to be aware of and address any developing problems or issues.
- (b) At any time during the contract period, the User Department is encouraged to discuss any contract issues and actions with the Purchasing Office. It is important that Purchasing be notified of any problematic vendor performance. All issues should be documented and forwarded to Purchasing as the problems occur. All documentation will be maintained in the contract file, and will be considered during any discussions of contract termination, as well as reviewed prior to future award and/or renewal recommendations.

32.324 Monitoring by Third Party

In some instances, the obligation to monitor the progress of a contract is assigned to another contractor. This is known as independent oversight. For example, in a construction project, the architectural firm that provided the construction plans may perform the task of ensuring progress in accordance with the contract.

32.325 Contract Management (User Department staff)

A good contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interests of the County are protected. The responsibilities of the User Department are:

- (1) Monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements,
- (2) Managing any County property used in contract performance,
- (3) Authorizing payments consistent with the contract documents,
- (4) Exercising remedies, as appropriate, where a contractor's performance is deficient,
- (5) Resolving disputes in a timely manner, if possible, and reporting disputes to the Purchasing Agent, if not,
- (6) Documenting significant events, and
- (7) Maintaining appropriate records.

32.326 Contract Administration (Purchasing Office Staff)

- (a) The objectives of contract administration are to:
 - (1) Ensure the contract requirements are satisfactorily performed before payment,
 - (2) Identify any material breach of contract by assessing the difference between contract performance and material non-performance,
 - (3) Determine if corrective action is necessary and take that action if required, and
 - (4) Resolve any disputes if the user department has been unable to do so.
- (b) Following these objectives facilitates the proper discharge of both parties' responsibilities.
- (c) The statement of work is the guide for contract administration. A clear and concise statement of work is the key to reducing claims and disputes. Therefore, planning for contract administration occurs before issuance of the solicitation. Effective contract administration minimizes or eliminates problems and potential claims and disputes.
- (d) The contractor must perform and meet the requirements of the contract, including the statement of work. To do so, contractors sometimes need technical direction and approval from County staff. County staff must provide this technical direction and approval in a timely and effective manner. All guidance provided to a contractor must be within the scope of the contract.

32.327 Reporting Issues

- (a) All aspects of contract administration are important. Documentation of specific non-compliance must be available to enforce contractual terms. Documentation includes a description of specific dates, locations, examples, etc. of non-compliance and any contact or communication with the contractor about non-compliance.
- (b) The User Department has primary responsibility for monitoring and documenting contractor performance and compliance. The user department must provide copies of all documentation of non-compliance to the Purchasing Office. Copies may be sent by e-mail to the Purchasing Office.
- (c) The User Department does not need to provide the Purchasing Office with copies of documentation about clarification exchanged with the contractor that clarifies expected performance standards. The Purchasing Office maintains all documentation submitted to it about events relevant to the contract during the term of the contract. The User Department should contact the Purchasing Office if there is any question about what should or should not be documented.
- (c) If the User Department observes and reports poor performance or non-compliance with the contract to the Purchasing Office, the Purchasing Office communicates with the contractor and initiates any corrective action. The Purchasing Agent takes all steps related to obtaining contract compliance, but consults with the County Attorney before taking any steps toward contract suspension or termination. Before any letters, notices, and other communication related to termination or suspension are sent to the contractor, they are reviewed by the County Attorney as the initial steps toward potential litigation.

32.328 Dispute Resolution

- (a) Proper dispute resolution is a core skill of successful contract management. Identifying problems early in the performance period, effectively communicating, and formalizing the process in writing through a cure notice procedure or less formal written procedure is essential.
- (b) Dispute resolution is covered in Texas Government Code, Chapter 2260. The goal of the dispute resolution process is to resolve all problems before they escalate to the next level. To avoid escalation of problems to the next level and ensure the County has not exacerbated potential problems, County personnel must respond promptly to all contractor inquiries. Initial steps to be taken are:
 - (1) Identify the problem – what may appear to be a problem may sometimes be resolved by providing the contractor with information or clarification.
 - (2) Research facts – Purchasing should obtain all the information about the potential problem from all relevant sources, including the project manager and the contractor.
 - (3) Evaluate circumstances – Purchasing should review all of the facts in conjunction with the requirements and terms and conditions of the contract. Purchasing determines the appropriate course of action.

32.329 Termination for Convenience

- (a) Termination for convenience, also known as a no-fault termination, allows the County to terminate any contract, in whole or in part, at any time in its sole discretion, if it is determined that the termination is in the best interest of the County and the County will not be seeking similar services from another vendor.
- (b) Purchasing provides the contractor a written notice specifying the extent of termination and the effective date, providing as much notice as possible.
- (c) The Contractor is generally paid for allowable costs incurred up to the effective date of termination. The County is not liable for payment to the contractor related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination.

32.330 Termination for Default (or Cause)

- (a) A contract may be terminated for default when the County concludes that the contractor fails to perform, make progress, or in any way breaches the contract and continues to do so after receiving notice of the issues.
- (b) Termination for default should be used as the last resort. The County should do everything practicable to assist the contractor in curing a default. Factors to consider before making a decision to terminate for default include:
 - (1) The provisions of the contract and applicable regulations,
 - (2) The specific contractual failure(s) and the explanation provided for the failures,
 - (3) The urgency of the need for the contracted supplies or services,
 - (4) Actions the County may have taken that aggravated the problems,
 - (4) The availability of the supplies or services from other sources and the time required to obtain them, and
 - (5) Availability of funds or resources to re-purchase if the costs cannot be recovered from the defaulting contractor.
- (c) Under a termination for default, the County may demand re-procurement costs from the defaulting contractor.

32.331 Contract File

Keeping one complete master contract administration file is critical. The file provides a basis for settling claims and disputes if they become administrative or court actions. Throughout the life of the contract, the Purchasing Office contract administration file should contain such documentation as:

- (1) An original copy of the current contract and the notice of award document,
- (2) An original copy of all contract modifications,
- (3) An original copy of the agenda request(s),

- (4) A copy of all specifications, drawings or manuals incorporated into the contract by reference,
- (5) The solicitation document, the contractor's response, and evaluation determinations,
- (6) A list of contractor submittal requirements,
- (7) A list of County-furnished property or services,
- (8) A copy of the pre-award conference summary, if applicable,
- (9) A copy of the post-award conference summary, if applicable,
- (10) A copy of all general correspondence related to the contract,
- (11) The originals of all contractor data or report submittals,
- (12) A copy of all notices to proceed, to stop work, to correct deficiencies and change orders,
- (13) The records or minutes of all meetings, both internal and external, including sign-in sheets and agendas,
- (14) A copy of the original bidders list, and
- (15) Any other information required by the standard contract file checklist.

[32.332-32.335 Reserved for Expansion]

Subchapter V. Professional Development and Certification

32.336 Policy

The policy of the Travis County Purchasing Agent is to develop and maintain a professional procurement staff that achieves these broad purposes:

- (1) To provide the best service possible to all county User Departments in a fair and equitable manner;
- (2) To ensure an atmosphere of equity to all vendors without regard to undue influence or political pressures; and
- (3) To protect the interest of County taxpayers and residents in all expenditures.

32.337 Key Objectives

The Purchasing Office strives to meet the following key objectives:

- (1) The actions of the office must be legal, ethical, and defensible.
- (2) The office contributes to the attainment of Travis County's organizational goals.
- (3) The office contributes to the attainment of Travis County's Triple A credit rating.

- (4) The office effectively communicates with all County employees and vendors.
- (5) The office consistently provides sound management data, including historical performance records.
- (6) The staff obtains the skills and training necessary to perform their duties effectively and efficiently.
- (7) The professional staff attempts to obtain relevant purchasing certification.

32.338 Training

To support these purposes and objectives, the training policy of the Purchasing Office is:

- (1) All staff must maintain an extensive knowledge of software programs to perform effectively within each related job. They must be current on all software applications used by the office. Training courses are assigned depending on knowledge and position requirements of the individual. Staff takes advantage of computer training offered by the County before pursuing external sources.
- (2) Professional staff is required, as funding is available, to attend the following standard seminars:
 - (A) Basic Public Purchasing
 - (B) Public Purchasing Law
 - (C) Advanced Public Purchasing
 - (D) Specification Writing
- (3) Depending on availability, other approved courses may be substituted for these courses. The professional staff may continue their professional education to remain current on purchasing issues through applicable seminars as available.
- (4) All professional staff are encouraged to participate in relevant training to enhance their efficiency and effectiveness in performing their duties.
- (5) Management support and funding are provided for training to allow staff educational opportunities related to their positions. Registration for training must have prior approval of the Purchasing Agent, and all expenses must comply with Travis County Travel and Training policies.

32.339 Certification

Professional staff is encouraged to pursue one or more of the following professional certifications:

- (1) Certified Purchasing Manager (C.P.M.),
- (2) Certified Professional Contracts Manager (CPCM),
- (3) Certified Public Purchasing Officer (CPPO),
- (4) Accredited Purchasing Practitioner (A.P.P.),

- (5) Certified Professional Public Buyer (CPPB),
- (6) Certified Professional Purchaser (C.P.P.),
- (7) Supply Chain Management Professional (SCMP), or
- (8) Certified Professional in Supply Management (CPSM).

[32.340-32.345 Reserved for Expansion]

***Subchapter W. Assets*²**

32.346 Introduction

- (a) Travis County owns thousands of items classified as assets. These assets take many forms, from vehicles to land, buildings to computer systems. Assets are classified as Capital Assets and Low Value Assets. Together, these assets represent millions of dollars. As public servants, County employees are responsible for the care and custody of this large investment. Maintaining accountability for such a large and varied inventory is not an easy task. However, accountability is not only an inherent duty of County employees; it is also mandated by law. Every employee should assume a personal commitment to protect and account for all equipment assigned to him or her, regardless of its temporary assignment.
- (b) The process of providing the tools needed to accomplish Travis County's mission involves many people and County departments, from the end-user to financial, purchasing and asset personnel. Accountability for these assets involves an equally large number of people. All County employees should be responsible for and accountable to the taxpayers for this large investment in assets. With careful management of these assets, every tax dollar is stretched to its fullest and resources can be made available to afford more of the tools needed to accomplish the County's mission.

32.347 Definitions

For the purposes of this subchapter, the following words have these meanings:

- (1) Capital Assets means property that has a useful life greater than one year and a value greater than its asset class threshold as stated in the Capital Asset Guide or a value greater than \$5,000.
- (2) Low Value Assets means property that must be inventoried and tracked because of liability, insurance, licensing or other factors but that does not qualify as a Capital Asset because its value is less than its asset class threshold as stated in the Capital Asset Guide and usually has a value between \$500 to \$4,999.99.

² Subchapter W. Assets was formerly Chapter 33. Fixed Assess Policy & Procedures. Chapters 32 and 33 were consolidated by Travis County Commissioners Court on (date) (item).

- (3) Salvage property means personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended.
- (4) "Surplus property" means personal property that:
 - (A) Is not salvage property or items routinely discarded as waste;
 - (B) Is not currently needed by its owner;
 - (C) Is not required for the owner's foreseeable needs; and
 - (D) Possesses some usefulness for the purpose for which it was intended.
- (5) "Waste" means material that cannot be reused or recycled. Waste that cannot be reused in operations will be recycled through a qualified contractor. Waste that cannot be reused or recycled is disposed of at a permitted landfill in accordance with all applicable regulations.

32.348 Authority

- (a) Travis County maintains a central system to account for all items classified as assets. Texas Local Government Code, Chapter 262 designates the Purchasing Agent as the position responsible for several duties related to the acquisition and management of assets. These include:
 - (1) Section 262.011(i). On July 1 of each year, the Purchasing Agent shall file with the County Auditor and each member of the Purchasing Board an inventory of all the property on hand and belonging to the County and each subdivision, officer, and employee of the County so that the County Auditor can examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.
 - (2) Section 262.011 (j). To prevent unnecessary purchases, the Purchasing Agent, with the approval of the Commissioners Court, shall transfer County supplies, materials, and equipment from a subdivision, department, officer, or employee of the County that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The Purchasing Agent shall furnish to the County Auditor a list of transferred supplies, materials, and equipment.
- (b) In addition, the Purchasing Agent assists the Commissioners Court in identifying and disposing of assets that the Court has declared to be Surplus Property or Salvage Property in accordance with Local Government Code, Chapter 263, subchapter D, Disposition of Salvage or Surplus Property. The Purchasing Agent assists the Commissioners Court in obtaining contract to dispose of this property in a variety of ways.

32.349 Protection of Property

- (a) Travis County protects its property by identifying the type of asset, classifying it, recording it, and tagging it with a unique asset tag. Asset tags may not be removed

from Travis County property. Both knowingly removing or causing the tag to be removed, altered or obliterated and possessing, selling, or offering to sell County property knowing that the asset tag number has been removed are criminal offenses under Texas Penal Code Section 31.11 Tampering with Identification Numbers.

- (b) Theft of County property is also a criminal offense and the penalties become more severe as the value of the property stolen increases.

32.350 Asset Definitions and Types

- (a) Assets are classified as Capital Assets in accordance with generally accepted accounting principles as described in the Capital Asset Guide.
- (b) Travis County also monitors and reports Low Value Assets.
- (c) The Purchasing Office works with User Department to determine which items need to be included in an inventory of Low Value Assets.

32.351 User Department Responsibilities

- (a) Officials and User Department heads are responsible for the care and custody of assets assigned to their departments. Each Official or User Department head shall designate one or more employees within the department to assist the Official or User Department head to coordinate receipt and tagging of new assets, conduct inventories, and maintain control of assets.
- (b) Although the Official or User Department head designates employees to assist with these inventory requirements, the Official or User Department head remains responsible for an accurate accounting of all assets assigned to his or her department.
- (c) To ensure that all assets are properly identified and inventoried, the User Department shall notify the Purchasing Office of assets that have not been obtained through the Purchasing Office. The Purchasing Office then determines whether they are Low Value Assets. This property may come from various sources including those in the following list.
 - (1) Donations. Property received as a donation or contribution, regardless of the source, must be evaluated for inclusion in an asset inventory. Except for donated infrastructure, User Departments shall notify the Purchasing Office of the prospective items to be donated or contributed before preparing an agenda request for formal acceptance of the items by the Commissioners Court as required by Local Government Code, section 81.032.
 - (2) Jointly Funded Assets. User Departments that purchase property with other governmental entities through interlocal contracts or through grant funding should contact the Purchasing Office to determine whether the property should be tagged and tracked. Asset tags for jointly funded or jointly owned assets include the name(s) of all entities that co-own the asset.
 - (3) Leased, Rented and Lease-Purchased Assets. The User Department shall contact the Purchasing Agent about all equipment rented, leased, or

purchased on a time-payment-plan so that the agreement can be reviewed and the ownership of the equipment may be determined. The inventory records for this equipment must include the name of the owner, if it is not the County and the expiration date of the agreement. Even though the County may not own the equipment, it remains accountable for it and responsible for its protection. The Purchasing Agent is responsible for monitoring this property and insuring appropriate action is taken upon the expiration of these contracts.

- (4) Property Received upon Completion of Consulting Contracts. Often a contract for an outside consultant includes equipment which is either purchased by the consultant or provided by the County. If purchased by the consultant to be transferred to the County upon completion of the contract, it must be included in the inventory records. If it is provided by the County, the inventory records should indicate when the consultant is to return it.
- (5) Assets Held in Trust. Capital Assets and Low Value Assets held by the County on behalf of another entity that are under the temporary control of the County are assets in trust. Common types of assets in trust include assets owned by the federal government that have been loaned to the County and assets purchased with federal or state grant funds under a grant contract in which the asset remains the property of the granting agency.
- (6) Assets Purchased with Discretionary Funds. A few Officials have the statutory authority to spend certain discretionary funds. These types of funds include revenue for the jail commissary, funds resulting from federal and state forfeitures and sales of forfeited assets. Asset tags for assets purchased with discretionary funds include the source of the funding. When the asset is disposed of, the net auction proceeds are returned to the account from which the asset was purchased.

(d) Warranties, Returns, and Trade-ins

- (1) If equipment malfunctions, before any repair is initiated, the User Department shall research the acquisition records and warranty files to determine if the equipment is still under warranty. If the User Department is uncertain, it should contact the Purchasing staff who made the purchase for assistance. The Purchasing Office reviews warranty and maintenance records. In consultation with the User Department and, if appropriate, support departments, such as Facilities Management or ITS, the Purchasing Office takes appropriate action to enforce the contract or warranty, if necessary.
- (2) If the malfunctioning equipment is defective and needs to be returned to the vendor, it is crucial that the User Department contact the Asset Manager immediately so that the inventory records can be updated to reflect the return of the equipment so that it can be removed from the user department's inventory. Without this update, the User Department remains accountable for the equipment. In addition, the User Department should contact the Asset Manager when a replacement for the equipment is delivered so that it can be properly tagged and the inventory records updated.

- (3) For items that are used for trade-ins or upgrades, the User Department shall contact the Asset Manager before the purchase to coordinate preparation of the appropriate paperwork to update the inventory records so that the item is removed from the User Department's inventory. The User Department must include at least a description of the trade-in and the asset tag number on the shopping cart. It is crucial that the User Department follow these procedures before the trade-in so that the inventory records may be adjusted and reconciled.
- (e) User Department's Annual Physical Inventory
- (1) An inventory list is maintained in SAP for each User Department. Each User Department must conduct a physical inventory once each year. Each User Department must assign adequate staff to conduct a physical inventory of the property held by it by the required deadlines.
 - (2) In coordination with the Asset Manager's staff, the User Department shall review its inventory records in SAP and report on their accuracy to the Purchasing Agent. If the User Department finds any assets in the department's possession that are not included in the inventory records in SAP, the User Department should notify the Asset Manager immediately to coordinate proper tagging and recording. The Official or User Department head shall sign and verify the inventory list using the Physical Inventory Acknowledgement Form.
- (f) Coordination with Purchasing to Dispose of Assets. If a User Department no longer needs or uses any asset because of changes in duties, workloads, or personnel, or because of the deterioration of the condition of the asset, the User Department should immediately contact the Asset Manager to coordinate disposal of the asset. Without this coordination, the asset remains on the inventory records in SAP for that Official or User Department head; consequently, the Official or User Department head remains responsible for the care and custody of that asset.
- (g) Reporting Damaged, Vandalized or Stolen Assets
- (1) Damaged/Replaced Assets. The User Department shall contact Risk Manager if an asset has been damaged to determine if a claim should be filed because the asset qualifies for reimbursement under Travis County's self-funded risk program or under insurance coverage purchased by Travis County. If a claim can be filed, the User Department shall provide a copy of the filed claim and information about replacements for the damaged asset to the Asset Manager so that inventory records may be adjusted to reflect the outcome of the claim. If no claim can be filed, the User Department shall provide information about the damaged asset to the Asset Manager so that the asset can be removed from inventory records in SAP.
 - (2) Stolen Assets. The User Department shall report stolen assets immediately to the appropriate law enforcement agency and shall complete an incident report. The User Department shall send a copy of the incident report to the Asset Manager. The User Department shall notify the Asset Manager whether

or not the asset has been recovered so that the Asset Manager can adjust the inventory records appropriately.

- (3) **Missing Assets.** The User Department shall contact the Asset Manager when an asset is identified as “missing” and the User Department cannot prove that a theft occurred. Assets identified as “missing” shall not be removed from the inventory records immediately. The User Department is required to make a thorough and adequate search for the missing item and document steps taken to locate the asset. “Missing” assets shall be retained as active on the inventory records in SAP for at least three years, and until a thorough search can be made annually for those three years to determine that the asset is not located elsewhere in the county. If a “missing” asset is not located after three successive inventory searches, the Purchasing Agent requests that the Commissioners Court to remove the asset from the inventory records. If there are special circumstances, the Purchasing Agent may work with the County Auditor’s Office to waive or reduce the three-year delay in removal of “missing” assets from a User Department’s inventory records.

- (h) **Rules of Cannibalization.** A User Department should not remove parts from assets unless doing so is in the best interest of Travis County because a need currently exists for the parts or is reasonably expected to exist within the current fiscal year. Before parts are removed from an asset, the User Department shall contact the Asset Manager to identify the parts and obtain approval of the removal and to ensure that inventory records reflect the parts that have been removed from the asset and that the asset is no longer functioning as originally intended.

- (i) **Asset Reuse.** Assets, such as office furniture and equipment, are available in the Purchasing Office warehouse. User Departments can sometimes leverage scarce budget funds by requesting a transfer of Surplus Property from the warehouse to their department rather than purchasing new assets. User Departments that are interested in transferring existing assets should contact the Asset Manager to view the assets available at the warehouse and make arrangements for a transfer if suitable assets are available.

32.352 Purchasing Office Responsibilities

- (a) **Adding Assets to Inventory Records.** There are two methods of adding an asset to inventory records:

- (1) The Asset Manager can receive assets entered in SAP by the User Department when a purchase is delivered and
- (2) The Asset Manager can enter assets in SAP when the User Department notifies the Asset Manager of a purchase using forfeiture funds or commissary revenues or an asset received as a donation.

- (b) **Classifying Assets.** Once the asset has been identified, the Asset Manager coordinates with the Auditor’s Office to ensure that the asset has been correctly identified and classified. The Asset Manager contacts the User Department to arrange for tagging.

- (c) Tagging Assets. A tag must be placed on all assets entered into the inventory records. The tag identifies the asset with a sequential, consecutive numbered barcode or otherwise identifies it in the inventory records by a unique alpha-numeric designation such as a manufacturer's serial number. The Asset Manager or those designated by the Purchasing Agent tag all assets.
- (d) Annual Physical Inventory
 - (1) A physical inventory of all assets is conducted once each year. The Asset Manager coordinates this physical inventory process.
 - (2) The Asset Manager compiles a consolidated report listing all Travis County assets and submits it to the Purchasing Agent. The Purchasing Agent presents this report to the Purchasing Board and County Auditor by July 1 of each year in accordance with Local Government Code, section 262.011(i).
 - (3) Once the physical inventory has been completed and reported, the Asset Manager compiles a list of assets that have been reported as missing or stolen for at least three (3) years for removal from the inventory records, and submits the list to Commissioners Court for approval.
- (e) Receiving Property in Warehouse
 - (1) The Purchasing Office is responsible for maintaining all Surplus Property and Salvage Property at the warehouse for reuse by other departments or until it is auctioned.
 - (2) The Purchasing Office receives and accepts all property delivered to the warehouse after forms properly completed with the transfer information are presented. Once assets have been received in the warehouse, the Asset Manager records their transfer from the User Department's inventory to the Purchasing Office inventory.
- (f) Disposing of General Property
 - (1) In disposing of general property, Local Government Code, section 263.152 specifies that the Commissioners Court of a County may:
 - (A) Periodically sell the County's Surplus Property and Salvage Property by competitive bid or by auction,
 - (B) Sell Surplus Property and Salvage Property without competitive bidding or an auction if the purchaser is another county or a political subdivision within Travis County;
 - (C) Offer the Surplus Property as a trade-in for new property of the same general type if the Commissioners Court consider that to be in the best interests of Travis County;
 - (D) Dispose through a recycling program under which the property is collected, separated, or processed and returned to use in the form of raw materials in the production of new products.
 - (E) Dispose of the Surplus Property or Salvage Property by donating it to a civic or charitable organization located in Travis County if the Commissioners Court determine that

- (i) Trying to sell the property would result in no bids received;
 - (ii) The bid price would be less than the County's bidding-related expenses;
 - (iii) The donation serves a public purpose; or
 - (iv) The civic or charitable organization provides the County with adequate consideration for transportation or disposal expenses related to the Surplus Property or Salvage Property.
- (F) Transfer gambling equipment that is in the possession of the County after its forfeiture to the state to the Texas Facilities Commission for sale as required by Texas Government Code, section 2175.904;
- (G) Order any vehicle retired from County use under a program to encourage the use of low-emission vehicles to be crushed and recycled, if practicable, without a competitive bid or auction.
- (2) If equipment for earth-moving, material-handling, road maintenance or construction becomes Surplus Property, the Commissioners Court may exercise a repurchase option included in the contract under which this Surplus Property was originally purchased to dispose of it. The repurchase price of equipment contained in that original purchase contract is legally considered a bid.
- (3) If the property is unclaimed or abandoned property, other than contraband, that was seized by a peace officer and was not ordered destroyed or returned to the person entitled to possession of it, the property is delivered to the Purchasing Agent who must dispose of it. The Purchasing Agent must provide notice of the disposal. If the owner is known notice is sent to the last known address by certified mail. If the property has a fair market value of more than \$500, an advertisement is published once in a paper of general circulation in the County that the owner has 90 days to claim the property. After that the property is sold and the net proceeds deposited in the County treasury. If the property has a fair market value of less than \$500, it can be sold or donated. Complete details of the required procedures related to this type of property and property seized from a person who is arrested are stated in Article 18.17 of the Code of Criminal Procedure.

(g) Disposal of Medical and Radiological Equipment

- (1) Federal regulations govern the transport and disposal of medical and radiological equipment and the waste produced by them. Among the regulated substances are hazardous wastes, blood borne pathogens, select agents and toxins, controlled substances, and chemicals of interest.
- (2) The specific federal regulations include the National Institute of Health (NIH) Guidelines and Titles 6, 7, 9, 21, 29, 40, 42 of the Code of Federal Regulations.
- (3) In addition, Texas laws and regulations require certifications to process and dispose of all medical and radiological equipment. If this equipment has been contaminated, before disposal it must have a Decontamination Certification

attached. If it might have been contaminated, it should also have a Decontamination Certification attached.

- (4) Other equipment that might have been used for holding biological materials or could otherwise have been contaminated must also be certified before it is transported to the warehouse. This equipment includes refrigerators of all sizes, makes and models; ovens; heaters; stoves; and almost any item that has been in a laboratory, a County physician's office, one of the clinics, a surgery center, medical training classrooms, incarceration facilities, and either EMS or law enforcement vehicles. There may be many other locations where an item might be contaminated. If there are circumstances that suggest an item may have been contaminated, these should be reported to the Asset Manager when there is a request to transport or dispose of the item.
- (5) Over-lapping categories such as lab equipment, in-vitro diagnostic equipment and radiological emitting devices may also have been used to hold biological materials or may have been otherwise contaminated.
- (6) Any item that may have been used to hold biological materials or may have been otherwise contaminated is considered "distressed" for auction purposes.
- (7) To purchase these "distressed" items and medical devices in Texas, the purchaser must have one of the following types of salvage licenses:
 - (A) Medical Device Salvage Broker License
 - (B) Medical Device Salvage Establishment License

(h) Disposal of Emergency Vehicles

- (1) State law governs the disposal of law enforcement and emergency vehicles.
- (2) Texas Local Government, Code section 272.006 prohibits transfer or sale of a law enforcement vehicle to the public unless the County first removes any equipment or insignia, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, or other emergency vehicle equipment. When transferred, the vehicle must not be capable of misleading a reasonable person into believing that the vehicle is a law enforcement vehicle.
- (3) Texas Local Government Code, section 272.006 also prohibits transfer or sale of a law enforcement vehicle to a security services contractor that is regulated by the Department of Public Safety and licensed under the Texas Occupations Code, Chapter 1702, unless each emblem or insignia that identifies the vehicle as a law enforcement vehicle is removed before the sale or transfer.
- (4) The Texas Transportation Code, section 728.021, prohibits the sale of a motor vehicle used to transport sick or injured persons unless the County removes:
 - (A) Any equipment that only an authorized emergency vehicle may be equipped with, including a light, siren, or device, and

- (B) Any evidence of any emblem or marking on the vehicle that identifies it as an authorized emergency vehicle.
- (5) Subsection (4) does not apply if the person to whom ownership of an authorized emergency vehicle is transferred is a person who:
 - (A) Holds a license as an emergency services provider under Texas Health and Safety Code, Chapter 773, or
 - (B) Is in the business of buying and selling in Texas and specializes in authorized emergency vehicles, or
 - (C) Is in a similar business operating in a foreign country.
- (6) Authorized emergency vehicles include:
 - (A) A fire department or law enforcement vehicle,
 - (B) An ambulance or emergency medical services vehicle licensed by the Department of State Health Services,
 - (C) An emergency medical services vehicle,
 - (D) A County-owned or leased vehicle designated by the Commissioners Court as an emergency management vehicle,
 - (E) A private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency.

(i) Methods of Disposal

- (1) Auctions
 - (A) Auctions are the most frequent method for disposing of Surplus Property and Salvage Property in Travis County.
 - (B) The Purchasing Agent solicits contracts with professional auctioneers to conduct auctions of Surplus Property and Salvage Property in accordance with Texas Local Government Code, section 263. In preparing these for disposal, the Purchasing Agent compiles a list of all property to be declared as “Surplus Property” or “Salvage Property” for disposal and presents the list to the Commissioners Court for approval.
 - (C) The Purchasing Office supervises the auction contract to ensure that the auction complies with all statutory requirements related to advertising and conduct of the sale and may reject offers in accordance with Texas Local Government Code, section 263.154.
 - (D) When the auction is complete, the Purchasing Office keeps a record of each item of Surplus Property and Salvage Property sold and the sale price of each. Auction proceeds are collected and deposited in the County treasury and recorded in the appropriate fund by the County Auditor.
 - (E) The Asset Manager updates the inventory records to reflect the fact that the assets and other property that were sold at auction and removes the disposed assets from the inventory records.

- (2) Competitive Bids
 - (A) The process for competitive bids is similar to that of auctions.
 - (B) The Purchasing Agent compiles a list of property to be declared as “Surplus Property” and “Salvage Property” for disposal and presents the list to the Commissioners Court for approval.
 - (C) After approval, the Asset Manager coordinates the appropriate advertisement language and placement of the advertisement.
 - (D) The Purchasing Agent supervises the competitive bidding process.
 - (E) Competitive bids are received as identified in the advertisement, opened, read and the highest and best bid accepted.
 - (F) Assets are transferred to the successful bidder upon receipt of payment of the amount specified in the bid. The bid proceeds are collected and deposited in the County treasury and recorded in the appropriate fund by the County Auditor.
 - (G) The Asset Manager updates the asset to reflect the fact that the item(s) and property were sold by competitive bid and the disposed property and items are removed from the inventory list.
- (3) Recycling. Some Salvage Property may produce greater value to the County when sold for materials or scrap rather than being disposed of as waste or sold at auction for a nominal sum. Disposal may be accomplished through a recycling program under which the property is collected, separated, or processed and returned to use in the form of raw materials in the production of new products. The Travis County Recycling Manager makes recommendations to the Purchasing Agent when this option is available.

(j) Ground Vehicle Titles

- (1) The original title for ground vehicles and other titled assets is stored in the County Treasurer’s Office. Purchasing specifications include instructions to the vendors to mail the manufacturer’s certificate of origin and the bill of sale to the Purchasing Office. After receipt of original title, the Asset Manager verifies that the vehicle is properly recorded in the inventory records and delivers the title of the Treasurer.
- (2) Original titles are signed by the Purchasing Agent on behalf of Travis County. Upon disposal of the asset, the Purchasing Agent signs all necessary forms to transfer title to the buyer. All titles name “County of Travis, c/o Purchasing Office” as the owner.

(k) Aircraft Titles

- (1) The registration of the ownership for aircraft is recorded in the FAA Aircraft Registry by submitting the bill of sale.
 - (A) The STAR Flight Program Director shall ensure that the appropriate forms are submitted to FAA Aircraft Registry which is located at Federal Aviation Administration, Aircraft Registration Branch, AFS—750, P. O. Box 25504, Oklahoma City, Oklahoma 73125-0504.

- (B) The Purchasing Office prepares the information and forms required by the FAA Aircraft Registry and any other appropriate agency, and submits the required fees.
- (2) Original bills of sale are signed by the Purchasing Agent on behalf of Travis County.
 - (A) Upon disposal of aircraft, the Purchasing Agent signs all necessary forms to record transfer of title to the buyer.
 - (B) All titles name "County of Travis, c/o Purchasing Office" as the owner.

[32.353-32.360 Reserved for Expansion]

Subchapter X. Sale or Lease of Advertising Space

32.361 Authority

- (a) Texas Local Government Code sections 263.251 and 291.011 allow a county to lease advertising space in and on its buildings, on its vehicles, and on its website, and to sell advertising space on correspondence distributed by US Mail.
- (b) Federal regulations in 41 Code of Federal Regulations 102-173 govern the use of .gov. Internet domains so that these remain the official and trusted Internet presence of the federal, state, and local levels of government.

32.362 Intent of Subchapter

Although Travis County owns many assets worth millions of dollars that may provide income if other entities are allowed to use space on them for advertising, Travis County's governmental operations and missions must not be adversely impacted by this use.

32.363 Application

This subchapter applies to the sale or lease of advertising space on all county assets under the control of any county official or employee.

32.364 Effective Date

This subchapter is effective when approved by Commissioners Court.

32.365 Definitions

In this subchapter:

- (1) "Building" means a building or part of a building that is owned by Travis County.
- (2) "Vehicle" means a device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracts that:

- (A) Is owned by Travis County, or
- (B) Is leased by Travis County if the vehicle owner has provided written consent to the advertising.

This definition is consistent with Texas Transportation Code, section 502.001 and is automatically amended to remain consistent with that section.

- (3) "Website" means the official Travis County website.

32.366 Federal Regulatory Restrictions on Use of .gov Internet Domain Website

- (a) Any Website on the .gov Internet domain may not be used to advertise for private individuals, firms, or corporations, or imply in any manner that the government endorses or favors any specific commercial product, commodity, or service.
- (b) Any Website on the .gov Internet domain may not be used for political campaigning, and may not be directly linked to or refer to websites created or operated by a campaign or any campaign entity or committee. No political sites or party names or acronyms may be used.
- (c) Any Website on the .gov Internet domain may not display criminal activities, obscene images, inappropriate sexually oriented materials or extremist material and may not send these to users.
- (d) Any Website on the .gov Internet domain may not allow criminal activities, obscene images, inappropriate sexually oriented materials or extremist material to be displayed on or sent to system users from any Website on the .gov Internet domain.
- (e) Any Website on the .gov Internet domain may not include content with advertising materials, political or campaign information, substantially incorrect information, incorrect redirects, or inappropriate web links (i.e., to sites that violate content restrictions).

32.367 Responsibility for Identification of Potential Advertising Space

- (a) In coordination with the officials or departments that use a Building, the Director of Facilities Management may identify for the Purchasing Office space at locations in or on a Building or part of it (except for Buildings in any Travis County Park) on or in which the Department of Facilities Management proposes leasing space for advertising.
- (b) The County Executive of Transportation and Natural Resources (TNR) may identify for the Purchasing Office locations in or on a Building or part of it in any Travis County Park on or in which TNR proposes leasing space for advertising.
- (c) Upon request of the Vehicle Users Committee and in coordination with the officials or departments that use the proposed Vehicles, the County Executive for TNR may identify for the Purchasing Office one or more Vehicles on which the Vehicle Users Committee proposes leasing space for advertising.
- (d) In coordination with the officials or departments that use the affected space on the Website, the Chief Information Officer (CIO) may identify for the Purchasing Office

one or more locations on any portion of the Website that is not on the .gov Internet domain where the CIO proposes leasing or selling space for advertising.

- (e) In coordination with the officials or departments that use the affected space on the Website, the CIO may identify for the Purchasing Office one or more locations on any portion of the Website including the .gov Internet domain where the CIO proposes leasing space for advertising by other governmental entities.

32.368 Court Determination of Appropriateness of Space for Advertising

- (a) Annually, the Purchasing Office presents all locations identified as potential spaces for advertising to the Commissioners Court.
- (b) The Commissioners Court considers each location and takes appropriate action regarding the sale or lease of each location as space for advertising.
- (c) In evaluating each location, the Commissioners Court may consider some or all of the following:
 - (1) The likelihood of receiving an offer;
 - (2) The costs, in both monetary and management resources, of procuring another entity to lease or purchase space at the location and the benefits from the advertising, both financial and otherwise;
 - (3) The appropriateness of any advertising being placed at that particular location;
 - (4) Any enhancements of a County use or purpose that could result from the use of the advertising space; and
 - (5) The fund or line item to which revenues received from the advertising sale or lease would accrue.

32.369 Required Contract Provisions

All contracts for advertising space must include the following contract provisions:

- (1) “Contractor shall not use the official Travis County seal (shown below) in any manner, or in connection with advertising any product or service;



- (2) “Contractor shall not place any advertising on any Vehicle or Building in a manner that interferes with any County markings on them;
- (3) “Contractor shall not place any advertising on any Vehicle or Building or Website in a manner that obscures or dilutes the County missions which must remain clearly and easily identifiable after the advertising is placed;

- (4) “Contractor shall not place any advertising on any Vehicle or Building in a manner that interferes with the public’s ability to clearly identify the department or office using the Vehicle or Building and the fact that the Vehicle or Building is Travis County property;
- (5) “Contractor shall securely attach any advertising on any Vehicle so that the advertisement does not cause a safety hazard or damage to the Vehicle or Building;
- (6) “Contractor shall attach any advertising to any Vehicle so that the advertisement is easily removable without damage to the Vehicle or Building;
- (7) “Contractor advertising may not include any content, data, work, materials, or service that is obscene, offensive, defamatory, harassing, malicious or illegal in the selected location;
- (8) “Contractor shall not include any content, data, work, materials, or service that would reflect adversely on the reputation and dignity of Travis County or the Travis County (insert location of advertising) or both;
- (9) “Contractor shall not include any content, data, work, materials, or service that would adversely impact the operations of Travis County, its ability to provide its services, or the achievement of Travis County’s missions, which include:
 - (A) “The operation of the criminal justice system with special emphasis on the following:
 - (i) “The reduction in recidivism by rehabilitation of offenders through counseling related to use of drugs or alcohol and sexual offenses
 - (ii) “The prosecution of such crimes as driving under the influence, domestic violence and crimes against minors;
 - (B) “The maintenance of order and good government;
 - (C) “Construction and maintenance of roads and bridges;
 - (D) “Promotion of the public health, safety, peace, morals, and general welfare;
 - (E) Providing assistance and support to low-income and otherwise disadvantaged residents requesting county services; and
 - (F) Sustaining and providing good stewardship over the county’s economic, environmental, and natural resources.
- (10) “Contractor shall indemnify Travis County for any damages to Vehicles or Buildings or the reputation and dignity of Travis County or the Travis County (insert location of advertising) arising out of use of the advertising space by Contractor; and
- (11) “If Contractor breaches or in any way fails to honor any of these warranties, County may terminate this contract, and revoke any advertising rights granted immediately.”

32.370 Notice of Intent to Sell or Lease Advertising Space

- (a) Before a sale or lease of advertising space, the Purchasing Office shall publish a notice of the County's intent to sell or lease the advertising space.
- (b) The notice must be published:
 - (1) At least one time in a newspaper of general circulation in the county at least 14 days and not more than 30 days before the date the award of the sale or lease of the advertising space is made; and
 - (2) On the Website continuously for at least 14 days immediately before the date of the award of the sale or lease of the advertising space is made.
- (c) The notice must include:
 - (1) The date and time by which bids or proposals must be submitted;
 - (2) The address to which bids or proposals must be submitted;
 - (3) A description of the space available for advertising, including its location; and
 - (4) The part of any real or personal property that the space occupies;
 - (5) A location on the Website where potential advertisers may read any contract provisions that must be included in the contract for use of the space; and
 - (6) The procedure by which bids or proposals for the sale or lease of the space may be submitted.

32.371 Development of Contracts for Sale or Lease of Advertising Space

- (a) The Purchasing Office and the user official or department review the bids or proposals received for lease of advertising space on that official's or department's Vehicles, Buildings or space on the Website; or for sale of advertising space on that official's or department's correspondence.
- (b) The official or department formulates a recommendation.
- (c) The Purchasing Office submits the official's or department's recommendation about appropriate actions on the bids or proposals received to the Commissioners Court.
- (d) The Commissioners Court takes appropriate action and may provide additional direction about considerations to be addressed in the contract.
- (e) The Commissioners Court may reject any or all bids or proposals submitted.

[32.372-32.380 Reserved for Expansion]

Subchapter Y. Procurement Cards

32.381 Purpose of Procurement Cards (P-cards)

- (a) P-cards facilitate the purchase of items that can most efficiently be procured through online resources. In addition, P-Cards allow employees whose employment requires them to travel on short notice or respond to emergency events.
- (b) P-Cards for Items related to short notice response and emergency response are subject to policies that apply only to the User Department which experience these needs. Any User Department that experiences these or similar needs must contact the Purchasing Agent and cooperate with the Purchasing Office to develop policies and procedures to identify the employees who are permitted to use P-cards, to define the limits of their use in purchasing items, to implement reporting and record keeping procedures related to use of the P-card and to provide all necessary safeguards on the security and appropriateness of the use of the P-cards. When policies have been developed, the policies must be approved by Commissioners Court before the User Department implements the P-card Program.
- (c) The remainder of this subchapter establishes the method for employees of the Purchasing Agent to use P-cards and define the limits of their use in making purchases, and is expected to provide Travis County with a method to purchase from vendors who do not accept purchase orders, to provide a quicker turnaround of requests for low-dollar-value items, and to reduce paperwork and handling costs. Payments to vendors are made via the P-card settlement system. Travis County makes monthly settlements with the P-card Issuer.
- (d) The remainder of this subchapter may be referred to as the Purchasing Office P-Card Policies and Procedures.

32.382 Definitions

For the purposes of this subchapter, the following words have these meanings:

- (1) P-card means a card issued by the P-card Issuer to a Cardholder which allows the Cardholder to purchase Items on credit within the limits authorized by the P-card Issuer as directed by the Purchasing Agent.
- (2) Cardholder means an employee of the Purchasing Agent who:
 - (A) Has been selected by the Purchasing Agent as honest, responsible, reliable, and likely to need to purchase Items not on solicited contracts,
 - (B) Has signed an Employee P-card Agreement in the form attached to this subchapter,
 - (C) Has been issued a P-card, and
 - (D) Is authorized to use that P-card only to make purchases in strict compliance with this subchapter.
- (2) Item means any good or service purchased for use by Travis County.

- (3) P-card Issuer means the financial institution that provides P-cards upon submission of a properly completed Enrollment/Request Form, authorizes the Single Purchase Limit and the overall monthly limit requested by the Purchasing Agent in that form, provides Statements and directly pays the vendors.
- (4) Administrator means the employee of the Purchasing Agent who administers the P-card policies and procedures in this subchapter and regularly reviews the use of each P-card that has been issued, certifies a Cardholder's Statement, and enforces the P-card policies and procedures whenever there is any non-compliant use.
- (5) Purchasing Log means a list of Items purchased using a specific P-card including the description of the Item, the name of the vendor and other relevant information that is maintained by each Cardholder
- (7) Statement means the monthly listing of all transactions made using the P-card, which is prepared and distributed directly to the Cardholder by the P-card Issuer.
- (8) Single Purchase Limit means the maximum allowable value of a transaction authorized for a specific Cardholder on a specific P-card that is assigned by the P-card Issuer based on the instructions of the Administrator, which may vary from P-card to P-card but which shall not exceed \$2,500 for any Cardholder on a specific P-card.
- (9) Transaction limit means the maximum allowable number of transactions authorized for a specific Cardholder on a specific P-card during a single month, which shall not exceed 20 for any for any Cardholder on a specific P-card or account.
- (10) Unauthorized Purchase means a purchase that does not comply with the P-Card Issuing Agreement and/or the Purchasing Office P-card policies and procedures in this subchapter.

32.383 Applying for a P-Card

- (a) The Administrator may propose employees of the Purchasing Office to be Cardholders by submitting a properly completed but unsigned Enrollment/Request Form to the Purchasing Agent.
 - (1) The Purchasing Agent determines whether the employee is an appropriate person to be issued a P-card based on the requirements in this subchapter.
 - (2) The Purchasing Agent determines and indicates the Single Purchase Limit, the Transaction limit, and overall monthly limit authorized for that employee on the Enrollment/Request Form.
 - (3) The Purchasing Agent approves submission of the Enrollment/Request Form to the P-card Issuer after the employee complies with all procedures to obtain a card.
- (b) The Administrator shall give the approved employee a copy of this subchapter.

- (c) To obtain a P-card, the employee must complete **all** of the following:
 - (1) Read the P-card policies and procedures in this chapter.
 - (2) Read and sign a properly completed Employee P-card Agreement which states that the employee understands the P-card policies and procedures in this subchapter and the responsibilities of a Cardholder; and
 - (3) Sign the previously submitted Enrollment/Request Form which contains all information required to be issued a P-Card.
- (d) After an employee complies with all procedures to obtain a card, the Administrator submits the Enrollment/Request Form to the P-card Issuer and provides the P-card to the Cardholder when it is available. The unique card that the Cardholder receives directly from the P-card Issuer has his or her name embossed on it and **ONLY** the Cardholder is authorized to use it.
 - (1) The Cardholder shall not allow any other person to use that card or account number.
 - (2) The Cardholder is responsible for all use of his or her card and account number.
- (e) The Administrator or designee shall maintain all records related to P-card requests, authorized limits, Cardholder transfers, and information about lost, stolen, and destroyed P-cards. The Administrator shall also notify the P-card Issuer of all P-card requests, authorized limits, Cardholder transfers, and information about lost, stolen, and destroyed P-cards.

32.384 Requirements for Purchasing with a P-card

- (a) The Cardholder may make purchasing transactions on behalf of Travis County with the approval of the Administrator.
- (b) The Cardholder shall limit use of the P-card to the following conditions:
 - (1) The Cardholder shall not make purchases where the value of the transaction exceeds his or her Single Purchase Limits.
 - (2) The Cardholder shall not split payment for a purchase into multiple transactions to stay within his or her Single Purchase Limit.
 - (3) The Cardholder shall not purchase any “over the counter” Items unless the Items are immediately available at time of P-card use.
 - (4) The Cardholder shall not use the P-card to purchase any back-ordered merchandise.
 - (5) The Cardholder shall not exceed the number of transactions or the dollar limits of authorized transactions.
- (c) The Cardholder shall **not** use the P-card for the following:
 - (1) Personal purchases or purchases for family members or friends;
 - (2) Identification;

- (3) Entertainment expense or meals or lodging, rental car, airfare or other travel expenses;
 - (4) Cash advances or money orders;
 - (5) Telephone calls or monthly service for any utility;
 - (6) Gasoline, oil, or other automotive supplies;
 - (7) Alcoholic Beverages or tobacco products; or
 - (8) Any additional Items that may be restricted by other Travis County policy.
- (d) If a Cardholder makes any unauthorized purchases or uses the P-card in any unauthorized manner, the Cardholder shall pay Travis County for the total dollar amount of these unauthorized uses and purchases plus any administrative fees charged by the P-card Issuer and any other costs associated with the unauthorized use. The Cardholder is also subject to disciplinary action for unauthorized use, the severity of which will be consistent with the seriousness of the unauthorized use and which may include termination of employment.
 - (e) Before making any purchase, the Cardholder shall determine if the Item is available under a County contract and whether the contract establishes an exclusive provider relationship. If the contract does establish an exclusive provider relationship, the Cardholder shall not purchase the item using the P-card. If the Item is available under a County contract that does not establish an exclusive provider relationship for the Item, the Cardholder shall not purchase it with the P-card unless the P-card transaction would result in better quality at a better price and would provide Travis County with the best value, and the reasons for this are documented on the purchase order.
 - (f) Before making any purchase, the Cardholder shall process a request for a purchase order to the vendor that includes all generally required information, such as the appropriate expenditure account, that references the P-card Issuer and P-card clearing account in the purchase order as the account code and that estimates the amount expected to be purchased using the P-card. To verify funds availability, a purchase order is issued but not submitted to the vendor.
 - (g) If the Items are not available on a County contract and their value is \$2500.00 or less, the Cardholder may purchase Items from a vendor without comparing sources or competition between vendors in compliance with the this subchapter.
 - (h) If vendors furnish a standing price quotation or catalog price on a recurring basis, the Cardholder shall verify that the price listed is current.
 - (i) When a vendor confirms that the Item is available and meets the specification and delivery requirements, the Cardholder shall confirm that the vendor accepts the P-card and that sales taxes are not payable on the Item purchased or charged to the transaction.
 - (j) When the Cardholder makes an "over the counter" purchase, the Cardholder shall make certain that the vendor lists the quantity and fully describes the Item(s) on the

P-card receipt. The Cardholder shall document the transaction in the Purchasing Log.

- (k) When the Cardholder makes a purchase by telephone, the Cardholder shall document the transaction on the Purchasing Log and retain all shipping documentation.
- (l) When the Cardholder makes a purchase over the Internet, the Cardholder shall document the transaction on the Purchasing Log and retain purchase confirmation and all shipping documentation, if applicable.
- (m) If the Item is to be shipped, the Cardholder shall direct the vendor to include the following information on the packing list or shipping label:
 - (1) Cardholder's name and telephone number,
 - (2) Complete delivery address,
 - (3) The words "P-card Purchase", and
 - (4) The vendor's order number.
- (n) The Cardholder shall advise the Purchasing Office receptionist who receives deliveries about the expected delivery of ordered Items, including the vendor's name, the order number, the anticipated delivery date, the number of boxes expected, and the carrier (UPS, Fed Ex, etc.). The receptionist shall notify the Cardholder when delivery is made so that the Cardholder can retain proper documentation. The vendor must deliver all purchases to the Cardholder ordering the Item to ensure that the documents necessary for record keeping are readily available to the Cardholder.

32.385 P-card Returns

- (a) If Items purchased by the use of the P-card are unacceptable because the wrong Item is received, the Item received is not satisfactory, or is damaged or defective, or is a duplicate order, the Cardholder should contact the vendor to explain the problem. The Cardholder shall obtain replacement or correction of the Item or inquire about return policies within one business day after the problem is discovered. Immediate action to resolve the problem is of extreme importance.
- (b) If the vendor has not replaced or corrected the Item by the date the Cardholder receives his or her Statement, the Cardholder shall consider the purchase of the Item in dispute.
- (c) If the Cardholder is disputing a charge, he or she shall:
 - (1) Contact the vendor to negotiate an appropriate resolution.
 - (2) If contacting the vendor does not resolve the problem, complete a Dispute Report and submit it to the P-card Issuer's representative with copies of the Dispute Report to the Administrator and County Auditor.

- (3) If an Item has been returned, the Cardholder shall request a credit voucher. If the Cardholder receives a credit voucher, the Cardholder shall verify that the credit is reflected on the Statement.
- (4) The Cardholder shall not accept a cash refund under any circumstances.
- (d) The Cardholder shall maintain a list of all disputed Items that have not been resolved and prepare a monthly report noting the Items from previous months.

32.386 P-card Holder Recordkeeping

- (a) For each P-card transaction, the Cardholder shall retain documentation to verify the purchases listed on the Cardholder's Statement.
- (b) The Cardholder shall continually maintain the Cardholder's Purchasing Log and include all pertinent information about each and every P-card purchase legibly in it.
- (c) When the Cardholder makes an "over the counter" purchase, the Cardholder shall retain the invoice and "customer" copy of the P-card receipt.
- (d) When the Cardholder makes a purchase by telephone, the Cardholder shall document the transaction on the Purchasing Log and retain all shipping documentation.
- (e) The Cardholder shall send a copy of the Purchasing Log for the period covered by the Statement with the Cardholder's Statement to the Administrator within five (5) days after receipt of the Statement each month.
- (f) If purchased Items or credits are not listed on the Statement, the Cardholder shall retain the applicable transaction documentation until the next Statement. If the purchase Item or credit does not appear on the next Statement or the second following billing cycle Statement, the Cardholder shall notify the Administrator and the Purchasing Agent.

32.387 Review of Monthly P-Card Statement

- (a) When the Cardholder receives the Statement from the P-card Issuer at the end of each billing cycle, the Statement should list the Cardholder's P-card transactions for that period. The Cardholder shall check each transaction listed on the Statement against his or her Purchasing Log, receipts and any shipping documents to verify the Statement and note any discrepancies.
- (b) Upon receipt of the Statement from the P-card Issuer, the Cardholder shall write the applicable purchase order number next to the corresponding line Item on the Statement, and send a copy of the Statement with the charges and the certified original Purchasing Log, to the County Auditor for payment processing.
- (c) The Cardholder shall carefully match complete supporting documents to the Purchasing Log and then to the Statement.
 - (1) The Cardholder shall neatly attach the original sales documents (purchase order, packing slip, invoice, cash register tape, P-card slips, etc.) for all Items

listed on the Statement to the Statement and Purchasing Log in the order the transactions are listed in the Purchasing Log to facilitate audit substantiation.

(2) IF THE CARDHOLDER DOES NOT ADHERE TO THIS PROCEDURE WITHIN 5 DAYS OF RECEIPT OF THE STATEMENT, THE ADMINISTRATOR SHALL REVOKE THE CARDHOLDER'S AUTHORITY TO USE THE P-CARD.

- (c) If the Cardholder does not have documentation of a transaction listed on the Statement, he or she shall attach a certified statement that includes a description of the Items purchased, date of purchase, vendor's name, and the reason for lack of supporting documentation.
- (d) If there are any discrepancies, the Cardholder shall list the transactions incorrectly billed and show that the Item has been disputed.
- (e) The Cardholder shall sign the Statement, and present the Statement and supporting documentation to the Administrator for review. The Cardholder shall present the list of Cardholder's disputed Items to the Administrator.
- (f) The Administrator shall maintain a master list of all unresolved disputed Items on Statements.
- (g) Within one business day of receipt from the Cardholder, the Administrator shall forward the original signed and approved Statements and copies of supporting documentation to the Purchasing Agent for review, approval, and signature.
- (h) To minimize the risk of late charges and fees, within three calendar days after receipt of the Statement and supporting documentation, the Purchasing Agent shall check the Cardholder's Statement and Purchasing Log and confirm at least the following:
 - (1) Receipts and shipping documents exist for each purchase.
 - (2) The goods were received or the services were performed.
 - (3) The Cardholder has complied with applicable procedures, including these P-card policies and procedures.
- (i) The Purchasing Agent shall return the certified Statements and supporting documentation to the Administrator within three calendar days of initial receipt.
- (j) If the Purchasing Agent discovers missing documentation, failure to comply with the P-card policies and procedures, failure to comply with any Purchasing policies and procedures, or other discrepancies or issues; the Purchasing Agent shall immediately notify the Administrator to investigate the discrepancies. If there are no discrepancies or issues, the Purchasing Agent shall sign and approve the Cardholder's Statement for submission to the County Auditor for payment.
- (k) The Purchasing Agent's approval and signature on a Cardholder's Statement indicates that the Cardholder was authorized to make the purchases listed on the Statement and that those purchases were made in accordance with the applicable procedures.

- (l) The Administrator shall retain the Statements, original receipts, and supporting documentation for County files for at least four years, and make those records available for audit upon request.

32.388 Monthly Statement Summaries

The contract with the P-card Issuer shall require the P-card Issuer to provide monthly Statement Summaries listing all transactions of all Cardholders to the Administrator. These summaries allow the Administrator to track each Cardholder's activities. These summaries act as a checklist for the Administrator to anticipate the Statements that are due from each Cardholder.

32.389 1099 Calendar Year Report

The contract with the P-card Issuer shall require that the P-card Issuer provide a report of all vendors from which purchases were made through the credit card that may be 1099-reportable within five business days of the end of each calendar year. In addition:

- (1) The Administrator shall use all reasonable efforts to obtain this statement from the P-card Issuer on a timely basis and provide this report to the Auditor's Office no later than January 10 of each year or as soon after that as the Administrator can obtain the report.
- (2) If the report is not received timely, the Administrator shall take all appropriate measures to remedy the breach of the P-card contract.
- (3) The County Auditor shall compare the report from the P-card Issuer with other County purchases to determine if the combined total of purchases for each vendor is 1099 reportable.

32.390 Foreign Vendor 1042 Reporting

Only the Administrator is authorized to make P-card purchases from foreign vendors. Before any credit card purchases are made from foreign vendors, the Administrator shall coordinate with the County Auditor to determine the appropriate tax forms to be completed, require the vendor to complete these tax forms, and receive the tax forms from the vendor. If the tax law requires that Travis County withhold money from a foreign vendor's payment, the credit card cannot be used to make the purchase.

32.391 Card Security

- (a) The Cardholder is responsible for safeguarding the P-card and the account number.
- (b) If the P-card is lost or stolen, the Cardholder shall immediately notify the P-card Issuer at 1-800-890-0669. P-card Issuer's representatives are available 24 hours a day. The Cardholder must tell the representative that the call is regarding a Travis County P-card. The Cardholder shall notify the Administrator immediately if the p-card is lost or stolen. The Cardholder is responsible for any unauthorized use of the P-card that is posted to the Statement after the P-card is lost or stolen. The Cardholder is also subject to disciplinary action, the severity of which is consistent

with the Cardholder's degree of responsibility for the loss or theft and may include termination of employment.

- (c) A new P-card may be issued to the Cardholder after the reported loss or theft if the Cardholder provides evidence that the loss or theft was not avoidable and not due to any carelessness or inappropriate behavior by the Cardholder. If a Cardholder finds a P-card that was reported lost or stolen, the Cardholder shall destroy the recovered P-card and return the pieces to the Administrator.
- (d) The Cardholder shall not allow anyone else to use his or her P-card or account number.
- (e) If the Cardholder allows anyone else to use his or her P-card or provides anyone else with his or her account number, the Administrator shall revoke the Cardholder's authority to use the P-card and require the Cardholder to return the P-card to the Administrator. The Cardholder is also subject to disciplinary action, the severity of which is consistent with the seriousness of the unauthorized used and may include termination of employment.
- (f) If the Administrator revokes the authority of a Cardholder to use a P-card or if any Cardholder stops working for the Travis County Purchasing Office, the Administrator shall notify the P-card Issuer in writing to cancel that Cardholder's P-card immediately.

32.392 Cardholder Separation from County

- (a) Before a Cardholder ceases employment for the Purchasing Agent, the Cardholder shall surrender the following to the Administrator:
 - (1) P-card
 - (2) Purchasing Log since the last Statement period ended,
 - (3) Original sales documents like the purchase order, invoice, cash register tape and P-card slips, for Items not previously list on a Statement.
 - (4) Original delivery documents like packing slip, cash register tape and P-card slips for Items not previously list on a Statement,
 - (5) All information and documents related to disputed Items that have not previously been resolved, and
 - (6) Any other relevant documentation.
- (b) Upon receipt of these Items, the Administrator will review and approve the Purchasing Log. The responsibility for the surrendered P-card remains with the Cardholder until the Purchasing Agent receives it.
- (c) If a Cardholder makes an unauthorized purchase, the Administrator shall require the Cardholder to pay the County for the total dollar amount of all unauthorized purchases and other unauthorized costs charged to the P-card immediately.
 - (1) If the Cardholder does not pay for the unauthorized purchase immediately, the Administrator shall notify the County Treasurer that the total dollar amount

of all unauthorized purchases and other unauthorized costs charged to the P-card is a debt due and owing to the County and no funds are payable by the County to the Cardholder until the debt is paid. The Treasurer may deduct the amount from the Cardholder's pay check unless a settlement agreement with the Cardholder provides for installment deductions to pay the amount over time.

- (2) The Administrator shall notify Payroll Disbursement that a payroll deduction is necessary and prepare the forms requested by the County Auditor for this purpose.
- (d) If it is anticipated that a Cardholder may terminate his or her employment, either voluntarily or involuntarily, or if a Cardholder has given notice of termination, the Administrator shall determine whether there are any unauthorized purchases since the last certified Purchasing Log was submitted by the Cardholder. In addition, the Administrator shall determine whether there are any amounts still due from previous unauthorized purchases.
- (1) If there are any such amounts due, the Administrator shall require the Cardholder to pay the County the entire amount due immediately.
 - (2) If the Cardholder does not pay for the entire amount due immediately, the Administrator shall notify the Cardholder that the entire amount due is a debt due and owing to the County and will be deducted from the Cardholder's pay check.
 - (3) The Administrator shall determine the amount of compensation and accrued leave available to pay any the amounts due and payable. If there is any amount due to the County as a result of unauthorized purchases or other unauthorized costs charged to the P-card, the Administrator shall not allow the terminating Cardholder to use any accrued leave until the entire amount due is paid in full.
 - (4) The Administrator shall notify Payroll Disbursement that a payroll deduction is necessary and prepare the forms requested by the County Auditor for this purpose.
- (e) If the Administrator does not follow the above procedures in a timely manner to ensure that the Cardholder pays any amount due to the County as a result of unauthorized purchases or other unauthorized costs charged to the P-card in full on or before termination, the Administrator is liable for the unpaid amounts that result from this negligence.
- (f) If the Administrator does not require any Cardholder to sign the "Employee P-Card Agreement," before a P-card is issued to the Cardholder, the Administrator is liable for the unpaid amounts that result from this negligence.

32.393 P-Card Program Enrollment Form

Enrollment/Request Form

I request that I be enrolled in the Travis County Purchasing Office P-card Program. I understand that, if approved, I will be issued a P-card in my name that I can only use for authorized official Travis County business. As a Cardholder, I understand that I will be required to sign an Employee P-card Agreement before a P-card is issued to me.

REQUESTOR'S NAME: _____

EMPLOYEE ID NUMBER: _____

DEPARTMENT AND DEPARTMENT HEAD: Purchasing Office

IMMEDIATE SUPERVISOR OF REQUESTOR: _____

ACCOUNT NUMBER: _____

DEPARTMENT ADDRESS: P. O. Box 1748

DEPARTMENT PHONE #: 512-854-9700

DEPARTMENT HEAD NAME: _____

IMMEDIATE SUPERVISOR: _____

I request a Single Purchase Limit of \$_____, not to exceed \$_____ per month. Attached to this form is a list of merchants/product categories/activities to be restricted from purchase by this Cardholder (*to be completed by Purchasing Agent*).

For Purchasing Office Use Only

Card Number: _____ Date Issued: _____

Date Returned/Cancelled: _____ Holder's Initials: _____

Date of Training/Policy Issuance: _____

Administrator Signature: _____

As Cardholder, my signature acknowledges that I have received the listed P-card, P-card training and P-card policies and procedures in the Travis County Code, Chapter 32, Subchapter Y.

Cardholder Signature

Date

32.394 Employee P-Card Agreement

I, _____, request a Purchasing Card (“P-Card”) through the Travis County Purchasing Office P-Card Program. As a Cardholder, I agree to comply with the following terms and conditions related to my use of the P-Card.

I understand that I am being entrusted with the P-Card and am making financial commitments on behalf of Travis County.

I understand that Travis County is ultimately liable to the P-Card Issuer for all charges made on the P-Card.

I acknowledge that I am liable for all charges for purchases that are made that are not in compliance with this Agreement or not in compliance with the P-Card Policies and Procedures in the Travis County Code, Chapter 32, Subchapter Y (the “Policies”), a copy of which is attached to this Agreement.

I have received a copy of the Policies and understand the requirements of the use of the P-Card. I shall use the P-Card only for purchases made in compliance with the Policies. I shall not to make any personal purchases or any other purchase in violation of the Policies. I understand that the burden of proof will be upon me to show that all items were purchased in compliance with the Policies. I agree to obtain the best value for Travis County when using the P-Card to make a purchase.

If the P-Card is used in a manner not authorized by the Policies, I shall notify the Purchasing Agent immediately. I understand that the County Auditor and the Purchasing Agent audit the use of the P-Card and that the Purchasing Agent takes appropriate actions to enforce this Agreement and violations of the Policies. If I do not follow the Policies, I shall return the P-card to the Purchasing Agent immediately upon request and I am also subject to disciplinary action, the severity of which will be consistent with the seriousness of my violation of the Policies and may include termination of my employment.

I understand that it is my responsibility to safeguard the P-Card and the account number and that I am personally liable for any charges resulting from my failure to safeguard the P-Card and the account number. If the P-Card is lost or stolen, I shall notify the Purchasing Agent and P-Card Issuer immediately.

I shall return the P-Card to the Purchasing Agent immediately upon request or upon termination of my employment (including retirement).

If I make purchases in violation of these policies, I am subject to disciplinary action, and I am responsible for paying the total cost of these unauthorized purchases, including any administrative fees charged by the P-Card Issuer or other associated costs in connection with the misuse. I authorize the County Auditor to deduct the total cost of all purchases and other costs charged to the P-Card issued to me that are not made in compliance with this Agreement and the Policies from my pay.

Employee Signature	Employee ID#	Date	Department
Purchasing Agent		Date	

32.395 Dispute Report

In accordance with the Travis County P-Card Program Policies and Procedures in the Travis County Code, Chapter 32, Subchapter Y, the listed Item is in dispute:

Item Ordered:	_____
Date Ordered:	_____
Date Received:	_____
Authorized Amount:	_____
Statement Amount:	_____
Vendor:	_____

Card Number:	_____
Cardholder Name:	_____
Phone Number:	_____
User Department:	_____
Department Account:	_____

Reason for Dispute: _____

Actions taken to Remedy: _____

