

Chapter 32. Purchasing Rules¹

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¹ Chapter 32 was replaced and retitled by Travis County Commissioners Court on April 2, 2019, Item 23. Sections 32.008 and 32.012 were amended January 14, 2020, Item 15.

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Subchapter A. General Provisions

32.001 Statutory Authority

- (a) Under Texas Local Government Code, section 262.011, the statutory purchasing duties of the Purchasing Agent include:
- (1) Purchasing all supplies, materials, and equipment required or used, and contracting 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;
 - (2) Seeing that all purchased supplies, materials, and equipment are delivered to the proper County officer or Department in compliance with the purchase contract;
 - (3) Filing an annual inventory of all property on hand and belonging to the County and each subdivision, officer, and employee with the Auditor and each member of the Travis County Purchasing Board; and
 - (4) Recommending the transfer of County Goods that are not needed or used from one department or employee to another department or employee who needs the Goods or the use of the Goods.
- (b) Under Texas Local Government Code, section 262.011(o), the Purchasing Agent must adopt rules and procedures to implement these duties. These 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 as long as these cards are not used to avoid Competitive Purchasing Procedures or other requirements of Texas Purchasing Laws.
- (c) Under Texas Local Government Code, section 262.011(o), the Commissioners Court must approve the rules and procedures adopted by the Purchasing Agent.

32.002 Intent of Purchasing Office

The Purchasing Office intends to perform its statutory duties and the responsibilities delegated to it by the Commissioners Court in a manner consistent with the procedures adopted by the Purchasing Agent and approved by Commissioners Court and the following:

- (1) Vision: To be a premier Purchasing Office that is a cornerstone for Travis County's growth and prosperity.
- (2) Mission: To support the needs of County Departments to improve the quality of life for Travis County taxpayers.

- (3) Guiding Principles: Professionalism, Innovation, and Equity.

32.003 Application

- (a) This chapter applies to the purchase and management of all supplies, materials, and equipment required or used, and all repairs to property used by the County or a subdivision, Official, or employee of the County.
- (b) This chapter does not apply to the lease or purchase of real property, or the negotiation of interlocal agreements with other governments that involve Goods and services unless requested by the User Department. However, for financial compliance, the Purchasing Office enters leases, real estate purchases, and interlocal agreements into SAP, when the County staff accountable for these agreements provide the Purchasing Office with a copy of the approved agreement.

32.004 Effective Date

This chapter is effective when approved by Commissioners Court.

32.005 Public Information Act Requests

- (a) Information about purchasing contracts may be open to the public under Texas Government Code, Chapter 522, Public Information.
- (b) All requests for information pertaining to purchasing contracts must be written and addressed to the Purchasing Agent. Requests must be specific enough so that information requested is easily identifiable.

32.006 Ethical Objectives

The ethical objectives of the Purchasing Office, if met, ensure that:

- (1) County purchases are made without regard to any undue influence or political pressures;
- (2) County spending does not result in favors or enrichment for County or District or Precinct elected officials or County employees;
- (3) This chapter includes a code of purchasing ethics that governs the conduct of every Employee involved, directly or indirectly, in the purchasing process; and
- (4) Purchasing Office staff are trained on this Code of Purchasing Ethics in the Purchasing Rules and aware of their ethical responsibilities in county purchasing.

32.007 Objectives of County Purchasing

The objectives of County purchasing are to:

- (1) Purchase the Best Value Goods and services that meet County needs;
- (2) Ensure that a continuing supply of Goods and services is available where and when needed;
- (3) Give Responsible bidders, including HUBs, a fair opportunity to compete for County business by complying with Competitive Purchasing Procedures, and the Purchasing Rules and the Purchasing Procedures; and
- (4) Comply in all aspects with the Texas Purchasing Laws.

32.008 Objectives of HUB Program²

(a) The objectives of the HUB Program are to:

- (1) Encourage the use of HUBs in compliance with the 2016 Disparity Study adopted by the Commissioners Court;
- (2) Promote full and equitable business opportunities for all businesses through race- and gender-neutral initiatives in an effort to reduce disparity in County purchasing;
- (3) Describe the minimum steps and requirements that County is taking to ensure that Contractors make efforts that by their scope, intensity, and appropriateness can reasonably be expected to achieve HUB participation and to assist certified HUB vendors in County's geographic and product markets in being awarded contracts;
- (4) Ensure that the HUB Program is narrowly tailored so that it complies with the law;
- (5) Provide opportunities for HUBs to broaden and enhance their capacities to do business with the County;
- (6) Administer the HUB Program in a manner consistent with applicable federal and state law;
- (7) Regularly review the HUB Program to ensure the continued existence of a compelling interest in remedying the effects of past and present discrimination and that the HUB Program is narrowly tailored to the specific conditions in the County marketplace;
- (8) Work in coordination with the Disadvantaged Business Enterprise (DBE) program created by the Texas Department of Transportation (TxDOT) for the design and construction of various public works projects; and
- (9) Assist corporate economic development agreement recipients and public improvement districts to implement and perform reporting under

² Section 32.008 was amended 1-15-2020, Item 15.

applicable programs including compliance with the HUB Program or the City of Austin’s Minority Business Enterprise/Woman-Owned Business Enterprise (M/WBE) Program.

- (b) The annual aspirational goals of the HUB Program by business category are based on the availability of ready, willing, and able HUBs as provided in the 2016 Disparity Study. The County strives to achieve these aspirational HUB Goals by contracting directly with HUBs or indirectly when contractors subcontract with HUBs. These goals serve as a benchmark to measure the overall effectiveness of the HUB Program on an annual basis:

Travis County HUB Goals	Construction	Commodities	Chapter 2254 Professional Services	All Other Services
African-American	1.46%	2.59%	1.13%	1.86%
Hispanic	8.08%	13.57%	5.54%	6.67%
Asian Pacific American	1.65%	2.93%	3.50%	3.19%
Native-American	0.38%	0.31%	0.32%	0.54%
Non-Minority Female	8.56%	8.04%	10.10%	14.11%
HUB Totals	20.13%	27.43%	20.58%	26.37%

- (c) HUB Program goals are not set on certain contracts, including:
- (1) Goods or services purchased under a contract that the Commissioners Court orders exempt from competition under Texas Local Government Code, section 262.024, such as Goods or services to protect residents or County property due to a calamity, and sole source Goods or services;
 - (2) Goods or services purchased through interlocal agreements, with other governmental entities or from Vendors through cooperative purchasing;
 - (3) Goods or services purchased with Purchasing cards;
 - (4) Goods or services purchased from a non-profit corporation;
 - (5) Goods or services that are certifications, memberships in professional organizations, insurance coverage, and third party administration for self-funded risks; and
 - (6) Revenue-producing contracts.

32.009 Objectives of Compliance

The objective of the contract compliance program is to promote effective, proactive, and transparent contract compliance by:

- (1) Ensuring that each contractor complies with
 - (A) The terms and conditions of its contract due to closer monitoring by contractor and County, and
 - (B) All federal and state laws that apply to its County contract;
- (2) Ensuring that the safety and welfare of workers building or providing services in County buildings and projects are safeguarded;
- (3) To the extent feasible given compliance staff capacity, providing assistance to each contractor if a compliance issue arises;
- (4) If User Departments notify the Purchasing Office that Goods or services have not been received by the due date, assisting User Departments in obtaining those Goods and services, and documenting the non-compliance;
- (5) If User Departments notify the Purchasing Office that damaged Goods have been delivered, assisting User Departments in obtaining replacement Goods from the contractor, and documenting the non-compliance;
- (6) If User Departments notify the Purchasing Office that the services were not performed in compliance with the contract, assisting User Departments in obtaining compliant services, and documenting the non-compliance;
- (7) Monitoring, tracking and reporting contractor compliance, including:
 - (A) Compliance with wage and safety laws on construction jobsites, and
 - (B) Maintaining compliance history so each contractor has an incentive to improve its performance and accountability; and
- (8) Providing the Purchasing Office with data from the gathered information to be used for more effective Negotiations at contract award and renewal.

32.010 Objectives of Asset Management

The objectives of asset management are to:

- (1) Perform an inventory of County assets annually;
- (2) Manage County assets so that
 - (A) Replacement costs are minimized,
 - (B) The County can account for all assets, and

- (C) The County can transfer assets between departments as appropriate;
- (3) Dispose of all surplus, salvage, seized and abandoned property in a manner that complies with the Texas Purchasing Laws and provides the Best Value to the taxpayers of the County;
- (4) Comply with all federal and state laws that apply to disposal of County assets and comply with the Purchasing Procedures and the rules and procedures adopted by the Purchasing Agent and approved by Commissioners Court; and
- (5) Guard against the misappropriation of County assets.

32.011 Management Objectives of Purchasing Office

- (a) The management objectives of the Purchasing Office are to:
 - (1) Consolidate smaller purchases by individual User Departments into larger purchases for the entire County, with the desire to obtain lower unit prices;
 - (2) Provide Vendors with a single, central contact point with the County purchasing process for consistent communication;
 - (3) Develop a staff with a solid foundation of knowledge and experience about purchasing, market trends, prices, and Vendors to assist User Departments to better define their purchasing needs to obtain the Goods and services to fulfill their function;
 - (4) Promote a more efficient purchasing process;
 - (5) Cooperate with the Auditor and other officials to develop efficient financial record keeping and payment processes;
 - (6) Promote local business response to and participation in the County purchasing processes; and
 - (7) Inspire public confidence in the County's purchasing process.
- (b) The Purchasing Office manages its performance in relation to its vision, mission, guiding principles, and objectives in the following manner:
 - (1) The performance management program encourages a continuous cycle of improvement and added value that is integrated across all functional areas of the Purchasing Office, including procurement, professional development, HUB Program, Contract Compliance Program, and Asset Management.
 - (2) Performance management is an ongoing, systematic approach to improving results through evidence-based decision making, continuous organizational learning, and a focus on accountability for performance.

- (3) Performance management is integrated into all aspects of the Purchasing Office management and processes, aligning practices to achieve improved results for Purchasing Office customers.
- (4) The Purchasing Office has implemented a goal setting methodology that provides metrics for success in addition to building a positive culture of tangible achievement and progress. This effort begins with revised vision, mission, and guiding principles, and clearly defined objectives and key results to establish cohesion, collaboration, and direction for the Purchasing Office staff and their respective programs and teams.
- (5) Performance management uses a three layer approach:
 - (A) Culture: Create a thriving office culture and a positively engaged workforce measured by bi-annual staff survey through strategic Organizational Alignment initiatives.
 - (B) Process Improvement: Revise inefficient processes and implement new technology where necessary.
 - (C) Outreach: Inform, educate, and train County partners and the vendor community on Purchasing Office functions, opportunities, policies, and procedures.
- (6) The Purchasing Office staff gather and assess performance measures related to culture, process improvements, and outreach annually to support resource planning, set and revise Purchasing Office and team objectives, and select areas in which to implement improved efficiencies.
- (7) The Purchasing Office continues to work on finding value-added performance measures that track multiple functions.

32.012 Definitions³

In this chapter:

- (1) "Auditor" means Travis County Auditor and her designated representatives.
- (2) "Best Value" means an evaluation of price based on the total life cycle cost of the Good or service which determines the best and lowest overall life cycle cost considering all relevant factors for what is being purchased.
- (3) "Commissioners Court" means the Travis County Commissioners Court.

³ Section 32.012 was amended 1-15-2020, Item 15.

- (4) "Competitive Purchasing Procedures" means the advertisement, opportunity to bid on Specifications for Goods or services, and other requirements that are substantially similar in the process for selecting a contractor that results in the contract being awarded based on those Specifications, terms and conditions for the best price offered.
- (5) "County" means Travis County.
- (6) "County Attorney" means the Travis County Attorney or his designated representatives.
- (7) "County Clerk" means Travis County Clerk or her designated representatives.
- (8) "County Executive" means any persons with the position title County Executive, and also includes those positions that report directly to the Commissioners Court at any specific time and their designated representatives.
- (9) "Department" means the offices of all district, County, and precinct elected officials, appointed officials and County Executives and all subdivisions of these offices.
- (10) "Employee" means any person who is paid by Travis County through the SAP payroll system and acts on its behalf, including County, precinct, and district elected officials, and appointed officials.
- (11) "Goods" means anything that can be owned and is moveable. It includes tangible things like cars, computers, supplies, material, other equipment, and components or repair parts as well as intangible things like money, mortgages, stocks, bonds, copyrights and patents.
- (12) "HUB" (the acronym for "Historically Underutilized Business") means either a business that:
 - (A) Has a currently valid certification as a Historically Underutilized Business, a Disadvantaged Business Enterprise, a Minority or Woman Owned Business or similar designation from any of the following entities:
 - (i) The State of Texas;
 - (ii) City of Austin;
 - (iii) Texas Unified Certification Program (TUCP); or
 - (iv) South Central Texas Regional Certification Agency (SCTRCA); or
 - (B) Complies with the following criteria:
 - (i) Does not exceed the size standards prescribed in 34 Texas Administrative Code sections 20.282 and 20.294 and 13 Code of Federal Regulations section 121.201;
 - (ii) Has its principal place of business in Texas; and

- (iii) Is at least 51% owned by an Asian Pacific American, a Black American, a Hispanic American, a Native American, an American woman and/or a Service Disabled Veteran, who
 - 1. resides in Texas and
 - 2. actively participates in the control, operations, and management of the business.
- (13) "Modification" means a written document in which the County and the Vendor agree to change one or more terms or conditions of a contract.
- (14) "Negotiation" means a discussion in which the County and Vendors attempt to reach agreement on differences in desired contract provisions.
- (15) "Official" means any elected or appointed official and their designated representatives.
- (16) "Professional Services" means both:
 - (A) any services directly related to a professional practice that is listed in the Professional Services Procurement Act, including those services within the scope of the practice of accounting; architecture; optometry; medicine; land surveying; and professional engineering, and
 - (B) services that are not specifically listed in the Professional Services Procurement Act that are commonly referred to as professional because they require technical skill and expertise and primarily mental or intellectual labor, rather than physical labor.
- (17) "Proprietary Information" means information provided by a Vendor in response to a solicitation for which the Vendor claims ownership or exclusive rights and which may be protected from disclosure under the Texas Public Information Act, Texas Government Code, Chapter 552.
- (18) "Purchase" means any kind of acquisition, including by a lease or revenue contract.
- (19) "Purchase Order" means the standard electronic document issued by the Purchasing Office to:
 - (A) Authorize the purchase of Goods and services to be delivered,
 - (B) Become a contract or Modification of one if accepted by the Vendor without qualification,
 - (C) Be the contractor's authority to deliver the Goods or services specified and invoice for them, and
 - (D) Become the County's commitment to pay the price stated in it if the Goods or services are delivered as specified and accepted.

- (20) "Purchasing Agent" means the Travis County Purchasing Agent and her designated representatives.
- (21) "Purchasing Office" means the Office of the Travis County Purchasing Agent.
- (22) "Responsible" means the reputation of being able to perform fully and deliver in compliance with the contract requirements based on past performance, financial capabilities, and business management.
- (23) "RFI" (the acronym for "Request for Information") means a general request to the business community including suppliers, consultants and contractors for information which is used as a research tool to gather information about products, services, the capabilities of various suppliers to assist in the decision-making process for developing a well-conceived solicitation document and clarifying the competitive requirements for preparation of specifications and requirements. Must be issued by the Purchasing Office.
- (24) "SAP" means the Travis County Enterprise Resource Planning system which includes modules for accounting, purchasing, and asset management.
- (25) "Specification" means a precise description of a Good or service, often including a detailed description of the design and materials to be used to make it or a standard of workmanship, materials, design, etc. required to be met in a piece of work, and any other requirements a Vendor must comply with to provide satisfactory performance of the contract, including testing, inspection, acceptance, and preparation for delivery, or preparation or installation for use.
- (26) "Texas Purchasing Laws" means all existing laws enacted by the Texas legislature that govern purchasing by counties 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) Purchasing and Contracting Authority of Municipalities, Counties and Certain Other Local Governments (Texas Local Government Code, Chapter 271, subchapter A)
 - (D) State Contract (Texas Local Government Code, sec. 262.002 Authority to Purchase Road Equipment and Tires through Comptroller, and Chapter 271, subchapter D, State Cooperation in Local Purchasing Programs)
 - (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) Governmental Entities (sales tax exemption) (Texas Tax Code, section 151.309)
 - (M) Workers' Compensation Compliance (28 Texas Administrative Code, Chapter 110 Required Notices of Coverage, section 110: Reporting Requirements for Building or Construction Projects for Governmental Entities)
 - (N) Uniform Electronic Transaction Act (Texas Business & Commerce 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)
- (27) "User Department" means any Department that will or does receive the Goods or services solicited and from whose budget the Goods or services used are or will be paid.
- (28) "Vendor" means a person or business that provides Goods or services and may enter into a contract for the purchase of them with the County.

[32.013 - 32.020 Reserved for Expansion]

Subchapter B. Code of Purchasing Ethics

Part 1. Ethical Requirements of Employees

32.021 Responsibility to County

- (a) While conducting County business, use the highest level of honor and integrity in accordance with all laws striving to avoid the appearance of unethical or compromising practices in relationships, actions, or communications.
- (b) Constantly strive for the highest standards of ethical behavior, trust, respect, fairness, integrity, and credibility.
- (c) Uphold the principles in this Code of Purchasing Ethics being ever conscious that County employment is a public trust.

32.022 Conflict of Interest

- (a) Employees and Officials must avoid any private or professional activity that creates a conflict of interest or appears to create a conflict of interest.
- (b) In County purchasing, a conflict of interest exists whenever what a person wants or is in their best interest is different from what the County wants or is in its best interest.
 - (1) A person's best interest includes both what the person wants and what any member of their family wants or is in the best interest of any member of their family.
 - (2) Recognize that private promises of any kind may conflict with one's County duties and responsibilities.
 - (3) Examples of a conflict of interest include:
 - (A) An Employee engaging in personal business with any representative of a County Vendor or similar person.
 - (B) An Employee lending money to or borrowing money from any County Vendor.
 - (C) An Employee asking for anything of value (a gift or gratuities) from a representative of a business that is submitting a bid or proposal.
 - (D) An Employee accepting anything of value (a drink at a conference, a lunch, gifts or gratuities) from a current contractor or a potential contractor, if it appears to influence or does influence their monitoring compliance of the contractor or a future purchasing decision.

- (E) An Employee who has accepted anything of value or is related to a representative of a respondent and does not remove themselves from a purchasing procedure that involves that respondent.
- (F) A person who does not tell the Purchasing Agent about a conflict of interest in writing so that the person is not included in any purchasing decision affected by the conflict of interest.

32.023 Conduct with Vendors

- (a) When representing the County, Employees involved in the contracting process must maintain respectful, professional business relationships with the vendor community. Employees must treat all individuals encountered in the performance of their duties in a courteous manner.
- (b) Vendors must be selected based on appropriate and fair criteria. An Official or Employee must treat all Vendors fairly and equally and shall not show favoritism to any Vendors.
- (c) The County and anyone representing it shall not ask for donations of goods or services from any County Vendor.

32.024 Criminal Activities

- (a) Any Employee who becomes aware of any criminal activity has a duty to the County to alert their Official or County Executive. The County does not tolerate any form of criminal activities in its purchasing processes.
- (b) Employees are encouraged to report to their supervisors or the Purchasing Agent any attempts at bribery or extortion that they hear about. These two activities are described below:
 - (1) Bribery is offering, promising, giving, or accepting any advantage to a person associated with a solicitation or purchase or to anyone else to get or keep a business advantage. Bribery sometimes involves a “kickback” of a portion of a County contract payment to an Official or an Employee or their family.
 - (2) Extortion is obtaining or attempting to obtain money or other valuable things through force, threat of force, or blackmail.

32.025 Gratuities

- (a) Employees shall not solicit or accept anything of value, such as money, loans, gifts, favors, tickets, meals or drinks, services, or entertainment, from present or potential contractors that might influence or appear to influence a purchasing decision.
- (b) If the total value of Goods or services received from a single Vendor within any twelve months has a value of \$50 or less, the presumption is that these

would not influence an Employee's purchasing decisions, unless there is evidence of influence on a specific purchasing decision.

- (c) If anyone has doubts about whether a specific circumstance is likely to appear to influence a purchasing decision, the person should disclose the circumstance to the Purchasing Agent for a determination.

32.026 Confidential Information

- (a) Employees must always act responsibly with confidential information received in the performance of County duties.
- (b) During a solicitation, Employees shall not tell one Vendor information obtained from another Vendor that may assist the Vendor receiving the information to obtain the contract award from the County.
- (c) Employees must not open any sealed bids or proposals or other responses to a solicitation before the time designated in the solicitation or reveal the contents of them to anyone before that time.
- (d) Employees must keep all information in any Vendor's response confidential during the Negotiations and until after the contract award. This means that Employees may only discuss information in a response with persons who are involved with the purchase, like members of the evaluation committee, a consultant assisting with the solicitation, Purchasing Office staff or the assistant County Attorney.
- (e) Employees shall not copy Vendor responses and must return them to the Purchasing Office after the evaluation is complete.
- (f) Employees shall not attempt to unduly influence members of any evaluation committee or communicate with Vendors during the evaluation process whether they are involved with the evaluation or not.
- (g) After contract award, Employees must keep the proprietary information of Vendors and contractors confidential. Proprietary information includes any information about a Vendor or contractor or their products that would give another person a business advantage over the contractor or Vendor who owns it.
- (h) Employees shall not knowingly use confidential proprietary information for actual or anticipated personal gain.

32.027 Personal Purchases

- (a) Employees shall not purchase any Goods or services from contracts available to the County if the Goods or services are not needed for County business purposes and are for their own personal use or benefit unless the Goods or services are offered as an Employee benefit through a discount program available to all Employees and the purchase is not made through the County purchasing and payment procedures in SAP.

- (b) Purchases from contracts available to the County are limited to Goods and services to be put into public service because Vendors have provided special pricing for that purpose.

[32.028 - 32.040 Reserved for Expansion]

Part 2. Ethical Requirements of Vendors

32.041 Disclosure of Former County Employee Status

To be considered in compliance with all material aspects of a solicitation document, including submission of all required documents, a person who offers to provide personal services or Professional Services to a User Department who has been employed by the County at any time during the one year 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 ended; and
- (3) The annual rate of compensation at the time of termination.

32.042 Criminal Activities

- (a) Texas laws prohibit Vendors from engaging in several activities that may or are intended to influence the outcome of a solicitation process. The County does not tolerate any form of these criminal activities in its purchasing processes.
- (b) Vendors should be aware that Employees are encouraged to report to their supervisors or the Purchasing Agent any attempts at bribery or extortion about which they hear. These two activities are described below:
 - (1) Bribery is offering, promising, giving, or accepting any advantage to a person associated with a solicitation or purchase or to anyone else to get or keep a business advantage. Bribery sometimes involves a “kickback” of a portion of a County contract payment to an Official or an Employee or their family.
 - (2) Extortion is obtaining or attempting to obtain money or other valuable things through force, threat of force, or blackmail.

32.043 County Ethics Declaration

- (a) This section provides a concise overview of the requirements for disclosure of doing business with Key Contracting Persons in Travis County Code, Chapter 33, Subchapter B. Any Vendor that is responding to a solicitation or entering into a contract with the County must swear a declaration that it has not done business and is not doing business with any persons considered Key Contracting Persons and named in a list attached to the declaration. If the

Vendor has done business with a Key Contracting Person in their personal capacity, the Vendor must disclose person in the declaration.

- (b) If the Vendor does not disclose any Key Contracting Person with whom it has done business, the contractor loses all benefits to it from the contract and must continue to perform the contract.

32.044 Disclosure of Interested Parties

- (a) This section provides a concise overview of the requirements for disclosure of interested parties in Texas Government Code, section 2252.908.
- (b) If a contract must be approved by Commissioners Court or has a value of more than \$1,000,000, the contractor must disclose all interested parties on the form prescribed by the Texas Ethics Commission when the contractor executes a contract with the County.
- (c) The disclosure form asks for a list of each interested party of whom the contractor is aware. The form 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 that is large enough to control the decisions of the business.
- (e) The County acknowledges receipt of the form on the secure website provided by Texas Ethics Commission within 30 days of receiving it.

32.045 Conflict of Interest Disclosure

- (a) This section provides a concise overview of the requirements for disclosure of conflicts of interest in Texas Local Government Code, Chapter 176.
- (b) For this section,
 - (1) "County officer" means:
 - (A) The members of the Commissioners Court, and
 - (B) 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.
 - (2) "Disclosure" means the conflicts of interest disclosure prescribed by the Texas Ethics Commission.
 - (3) "Gifts" include lodging, transportation and entertainment as a guest but do not include political contributions or food received as a guest.
- (c) Unless the County officer is an Employee who is acting in his or her official capacity, a County officer must file the Disclosure about 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; or
 - (3) Has a family relationship with the County officer.
- (d) If a County officer is not an Employee who is acting in his or her official capacity, the County officer must file the Disclosure with the County Clerk before 5 p.m. on the 7th day after the County officer becomes aware of facts that require filing this Disclosure.
- (e) A Vendor must file the Disclosure 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 within the 12 months before the Vendor considers entering into or enters into a contract with the County, or
 - (3) Has a family relationship with a County officer.
- (f) The Vendor must file the Disclosure with the County Clerk before 5 p.m. on the 7th day after 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 within the 12 months before the vendor considers entering into or enters into a contract with the County; or
 - (C) A family relationship with a County officer.
- (g) Failure to file these Disclosures is a criminal offense. The severity of the offense is determined by the monetary value of the contract.

- (h) The Purchasing Agent maintains a list of County officers and makes it available to the public including any Vendor who may be required to file a Disclosure.
- (i) The County Clerk shall maintain the Disclosures and questionnaires required to be filed.

[32.046 - 32.090 reserved for expansion.]

Subchapter C. Authority Delegated to Purchasing Agent

32.091 Purchases Costing Under \$50,000

- (a) The Purchasing Agent is authorized by law to select the exact Goods or services and specific Vendors to respond to requests of User Departments when the purchase is not over \$50,000.
- (b) The Purchasing Agent is authorized to make these selections unilaterally but often does so in consultation with the User Departments if that method is more likely to produce the Best Value for the County. For example, time may be short for purchases for an emergency but the expertise of the User Department may be essential in purchasing Professional Services or a sole source Goods or services.
- (c) The Purchasing Agent is authorized by law to perform all actions necessary to enter into a contract under \$50,000 for these Goods and services, including signing the Purchase Order or contract without any specific approval of the
- (d) Commissioners Court if there are funds available for the purchase. These contracts may include Professional Services contracts.

32.092 Pre-approval of Concept

- (a) The Commissioners Court authorizes the Purchasing Agent to issue solicitations for the acquisition of Goods and services at the request of an Official or County Executive if the Planning and Budget Office verifies that the Commissioners Court approved the funding for them during the budget process and adequate funds remain in the User Department's budget for them.
- (b) The Purchasing Agent shall not issue any RFIs related to work supervised by departments that report to the Commissioners Court unless the Court has approved the concept before issuance.

32.093 Managing County Purchases

- (a) The clause "to manage the County purchasing process for Goods and services" includes the following functions as applicable to the type and circumstances of the purchase:

- (1) Consolidating smaller purchase requests from individual User Departments into larger purchases for the entire County to obtain lower unit prices, if possible;
 - (2) Writing and distributing the documents describing the desired Goods and services and the purchasing process to potential respondents, including Vendors and professional firms;
 - (3) Approving the description of the requirements in a solicitation, subject to receiving approval of a purchase of Goods or services from the applicable oversight review department that manages an intradepartmental service or system (Information Technology Services, Facilities Management, Records Management, or TNR Fleet), if any;
 - (4) Placing a public notice in a newspaper of general circulation containing information about the intended purchase, if legally required or desired;
 - (5) Extending the opening date for responses stated in a solicitation if an error is discovered, or if the nature of the Goods or services require an extension;
 - (6) Amending a solicitation if the amendment does not materially change the scope of the solicitation; the changes are not significant enough to affect a potential respondent's ability to respond; and questions from potential respondents indicate the need to clarify the original intent of a substantive requirement or other critical element of the solicitation;
 - (7) Supervising the review and evaluation of the responses from respondents, including Vendors and professional firms;
 - (8) Negotiating directly with the Vendors for the Best Value if legally allowed for that Good or service and negotiating directly with professional firms proposing the best qualifications and demonstrating the most competence;
 - (9) Working with the County Attorney's office to draft the contract;
 - (10) Presenting the resulting contract to the Commissioners Court for approval if over \$50,000;
 - (11) Processing Purchase Orders from User Departments for goods and services available under contracts, including Professional Services contracts approved by Commissioners Court if over \$50,000;
 - (12) Working with the County Attorney's office to draft Modifications to contracts; and
 - (13) Processing notice of delivery and forwarding payment requests (for construction projects) from User Departments to the Auditor.
- (b) If the Planning and Budget Office verifies that the Commissioners Court at least informally approved the further development of a concept involving a Good or service during the budget process and adequate funds are budgeted for it, the Commissioners Court authorizes the Purchasing Agent to manage

the County purchasing process for Goods and services for the following types and circumstances of purchasing:

- (1) Competitive Purchasing Procedures for Goods and services costing over \$50,000,
- (2) Purchasing Goods and services costing over \$50,000 after the Commissioners Court has ordered that purchase exempt from the Competitive Purchasing Procedures,
- (3) Purchasing Professional Services based on demonstrated competence and qualifications,
- (4) Purchasing that is done using the reverse auction procedure developed in compliance with Texas Government Code section 2155.062(d) after one is developed by County.

32.094 Purchases Exempt from Being Made Competitively

- (a) The Purchasing Agent evaluates whether Goods or services may be eligible, based on court cases and Texas Attorney General Opinions, for exemption from the Competitive Purchasing Procedures. If the purchase is expected to be over \$50,000 and one of the potential exemptions authorized by Texas Local Government Code, section 262.024 applies to the needed Goods or services, the Purchasing Agent requests that the Commissioners Court order that the purchase be exempted from the Competitive Purchasing Procedures. (Exception: The Purchasing Agent is not involved in any purchases of an interest in land.)
- (b) For exempted Goods and services, the Commissioners Court authorizes the Purchasing Agent to select the exact Goods or services and Vendors either unilaterally or in consultation with the User Departments, depending on what is appropriate in the circumstances.

32.095 Developing a Reverse Auction Procedure

The Commissioners Court authorizes the Purchasing Agent to develop and implement a reverse auction procedure as described in Texas Government Code, section 2155.062(d) for the purchase of appropriate Goods and services so that County may use this purchasing strategy involving an auction in which the roles of the buyer and the seller are reversed with the intent to reduce purchase prices.

32.096 Purchases Based on Employee Use of Procurement Cards

- (a) The Commissioners Court authorizes the Purchasing Agent to develop and implement a purchasing card procedure for Employees to pay for County purchases under the direction and supervision of the Purchasing Agent as long as the procedures do not avoid the Competitive Purchasing Procedures related to the purchase of appropriate Goods and services.

- (b) The Commissioners Court authorizes the Purchasing Agent to manage the use of County purchasing cards to pay for County purchases and require all reports and limits necessary to safeguard the County from improper use of the cards.

32.097 Purchases Based on Authority under Chapter 2269: Construction Projects

- (a) The Commissioners Court authorizes the Purchasing Agent to exercise its authority under Chapter 2269 to determine which of the following delivery methods, other than competitive bidding, provides the Best Value for the County when soliciting construction services for a particular construction project: competitive bids, competitive sealed proposals, construction manager-agent, construction manager-at-risk, construction design-build: public works, construction design-build: civil works, job order contracts.
- (b) The Commissioners Court authorizes the Purchasing Agent to exercise its authority under Chapter 2269 to perform the following under job order contracts previously approved by Commissioners Court in compliance with Texas Government Code, chapter 2269:
 - (1) Approve each job, task and purchase order that does not exceed \$500,000; and
 - (2) Sign orders for job or project.

32.098 State Cooperative Purchasing Programs

- (a) The Commissioners Court has adopted a resolution requesting that the Texas Comptroller allow the County to participate in state cooperative purchasing programs on a voluntary basis. The resolution states that the County will comply with the statutory requirements and has been filed with the Texas Comptroller.
- (b) In that resolution, the Commissioners Court designated the Purchasing Agent, under its direction, to be the Official to act for the County in all matters relating to state cooperative purchasing programs, including the purchase of Goods and services from the Vendor under any contract. These programs include:
 - (1) The State Term Contracts program through the Texas Comptroller of Public Accounts Procurement and Support Services (TPASS) (Texas Local Government Code sections 271.081 through 271.083);
 - (2) Texas Multiple Award Schedule program (TXMAS) through TPASS (Texas Government Code section 2155.502);
 - (3) DIR and GoDIRect program through the Department of Information Resources (Texas Government Code Interlocal Cooperation Act, Chapter 791);

- (4) Deliverables-Based IT Services program (DBITS) through the Department of Information Resources; and
 - (5) IT Staffing Services program through the Department of Information Resources.
- (c) The Commissioners Court also designates the Purchasing Agent, under its direction, to be the Official to act for the County in all matters relating to the Texas State Use Program through TIBH Industries, Inc. for purchases including Goods and services under any contract.
- (d) The Commissioners Court authorizes the Purchasing Agent to request the Texas Comptroller to conduct a solicitation for bids for any good or service that is not under state contract, if desired.
- (e) Provided the Commissioners Court has approved the cooperative agreement and funding for the purchase, the Commissioners Court authorizes the Purchasing Agent to:
 - (1) Submit Purchase Orders under a contract to DIR, including Purchase Orders in excess of \$50,000.
 - (2) Send Purchase Orders electronically directly to GoDIRect Vendors, including Purchase Orders in excess of \$50,000.
- (f) If the User Department requests Goods or services available from DBITS, the Commissioners Court authorizes the Purchasing Agent to manage the solicitation process, including preparing a statement of work and negotiating pricing and contract terms for any of the services offered by DBITS. Provided the Commissioners Court has approved the cooperative agreement and funding for the purchase, the Commissioners Court further authorizes the Purchasing Agent to sign contracts, including contracts in excess of \$50,000, directly with the selected Vendor after completion of the solicitation process.
- (g) The Commissioners Court authorizes the Purchasing Agent to manage the solicitation process for temporary IT staffing augmentation services on a time (hourly) basis through IT Staffing Services program and to issue Purchase Orders, including Purchase Orders in excess of \$50,000, directly to the selected Vendor after completion of the solicitation process.
- (h) Provided the Commissioners Court has approved the cooperative agreement and funding for the purchase, the Commissioners Court authorizes the Purchasing Agent to submit requisitions to the Texas Comptroller, and send Purchase Orders directly to Vendors, including requisitions and Purchase Orders in excess of \$50,000, send reports on actual purchases to the Texas Comptroller, and make sure that payments are made directly to the Vendors and that Vendors comply with the conditions of the contract.

32.099 Local Cooperative Purchasing Programs

- (a) Under Texas Local Government Code sections 271.101 and 271.102, the County is authorized to participate in cooperative purchasing programs with other local governments in any state or local cooperative purchasing organizations that provide access to contracts with Vendors for the purchase of materials, supplies, services, or equipment.
- (b) The Commissioners Court has approved and signed agreements with numerous cooperative purchasing programs with other local governments and local cooperative purchasing organizations that allow the County to participate in these programs.
- (c) The Commissioners Court designates the Purchasing Agent, under its direction, to be the Official to act for and on behalf of the County in all matters related to the cooperative purchasing programs with which it has contracted. The Commissioners Court authorizes the Purchasing Agent to sign all contracts for purchases under the terms of any interlocal purchasing agreement, including purchases in excess of \$50,000, provided the Commissioners Court has approved the interlocal agreement and the funding for the purchase.
- (d) The Commissioners Court authorizes the Purchasing Agent to submit requisitions to the applicable program or electronically send Purchase Orders directly to Vendors using the procedures stated in that cooperative program's interlocal agreement, both to include purchases in excess of \$50,000.
- (e) The Purchasing Agent is accountable for ensuring that payments are made either to another participating government, the purchasing organization or directly to the Vendors as provided in the applicable specific agreement.

32.100 Interlocal Cooperation Agreements

- (a) Under the Interlocal Cooperation Act, Texas Government Code, Chapter 791, the County is authorized to contract directly with other governments to jointly perform the governmental functions they are individually authorized to do with the intention of increasing their efficiency and effectiveness.
- (b) These agreements are generally initiated, negotiated, and managed by the User Departments directly with their counterparts in similar departments within the other government because they usually require the cooperative efforts of the Employees from each government. These may be initiated by elected officials, appointed officials and County Executives.
- (c) The Commissioners Court authorizes the Purchasing Agent to assign contract numbers to these agreements and enter them into SAP for tracking and payment purposes after the Commissioners Court approves them.
- (d) The Commissioners Court also authorizes the Purchasing Agent to assign a contract number to each revenue-generating interlocal agreement and to enter them into SAP to assist in tracking this type of interlocal agreement.

32.101 Purchases from Federal Supply Schedule Sources

- (a) Under Texas Local Government Code section 271.103, the County is authorized to purchase Goods and services available under Federal supply schedules of the United States General Services Administration to the extent permitted by federal law.
- (b) The Commissioners Court authorizes purchases from these schedules and designates the Purchasing Agent as the Official to act for the County in all matters related to them.
- (c) The Commissioners Court authorizes the Purchasing Agent to sign all documents necessary to make purchases, including purchases in excess of \$50,000, in compliance with all federal requirements related to these purchases.

32.102 Sources or Procedures Approved by New Legislation

The Purchasing Agent is authorized to develop new procedures and implement new purchasing programs based on and in compliance with additional types of purchasing authority that satisfy any state law requiring Competitive Purchasing Procedures and become available to counties through subsequent legislation.

32.103 Authority to Sign Contract Modifications

- (a) Contract Modifications may be either bilateral (signed by both parties); or unilateral (signed by only one party).
- (b) The Commissioners Court authorizes the Purchasing Agent to make changes within the scope of the contract without further approval by Commissioners Court if:
 - (1) The change is a minor, administrative change (usually unilateral) including the following types of changes:
 - (A) Drawings, designs, or Specifications when the Goods are to be specially manufactured for the County based on the drawings, designs, or Specifications;
 - (B) The method of shipping or packing;
 - (C) The place of delivery;
 - (D) Time for delivery or completion if allowed by the contract terms and conditions;
 - (E) Address for notice; and
 - (F) Contractor's name if the TIN (federal Taxpayer Identification Number) remains the same.
 - (2) The changes do not affect either the pricing or timing of delivery (either unilateral or bilateral) including the following types of changes:

- (A) Incorporating a Business Associate Agreement into the contract and signing it,
 - (B) Correction of errors of a general administrative nature, like misstatement of the County position accountable for managing the contract or similar mistakes,
 - (C) Assignment of payments due to the contractor under the contract, and
 - (D) Exercising an option to extend a contract for an additional time period if the User Department recommends the extension based on satisfactory performance and if unused options to extend remain and have a set price or an ascertainable price applicable during that option period that were approved in the original contract.
- (3) The changes are within budget for the User Department (generally bilateral but occasionally unilateral) including the following types of changes:
- (A) Increases or decreases in the quantity of Goods or services purchased;
 - (B) Increases in the total contract price of \$50,000 or less, including a change order to a construction contract that the Official or County Executive accountable for the project has recommended in writing, if:
 - (i) The original contract price has not been increased by more than 25% unless the increase 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
 - (ii) The increase can be paid from current and available funds; and
 - (C) Decreases of \$50,000 or less if the decrease is also less than 18% of the total contract price unless the Contractor has consented to a decrease of 18% or more.

32.104 Bonds

If a payment bond or a performance bond is not required by law, the Commissioners Court authorizes the Purchasing Agent to accept a Letter of Credit in place of that bond on the following conditions:

- (1) The County Attorney reviews and acknowledges in writing the legal sufficiency of the terms of the proposed Letter of Credit, and
- (2) The Purchasing Agent has verified the acceptability of the financial condition of the institution providing the Letter of Credit.

32.105 Authority to Select Purchasing Process to be Used

The Commissioners Court authorizes the Purchasing Agent to select the purchasing procedure that is most appropriate for each good or service from those listed in sections 32.093 through 32.102 for any purchases requested by User Departments, unless, before the solicitation process begins, the Commissioners Court specifically requests that a particular purchase be made using a particular method. In selecting the procedure, the Purchasing Agent considers which procedure, in her judgement, is the most efficient and effective way to get the Best Value for the County and the User Department.

32.106 Authority to Use Electronic Signatures

The Commissioners Court authorizes the Purchasing Agent to implement and use electronic document signature programs as convenient and appropriate for Vendor signatures, Purchasing Agent signatures, and confirmations of approval from the County Auditor and the County Attorney staff. The Commissioners Court may also use these electronic signature programs for signatures on behalf of the County after approval by Commissioners Court.

32.107 Authority to Delegate to Purchasing Office Staff

The Commissioners Court authorizes the Purchasing Agent to delegate the authority granted to her in this subchapter to appropriate Purchasing Office staff when they are making County purchases assigned to them while under her direction and supervision and to the extent necessary to accomplish the purpose of the Purchasing Office.

32.108 Asset and Inventory Management

- (a) Under Texas Local Government Code chapter 262, the Commissioners Court authorizes the Purchasing Agent to manage a warehouse to store County assets and inventory.
- (b) The Commissioners Court authorizes the Purchasing Agent to transfer County supplies, materials, and equipment that are not needed or being used from one User Department to another upon request of the receiving User Department.
- (c) The Commissioners Court authorizes the Purchasing Agent to enter into contracts to dispose of the surplus and salvage property in the manner most appropriate to the property in compliance with the law.

32.109 Title to Assets

- (a) The Purchasing Agent is authorized to register purchases of vehicles and helicopters with the appropriate authority in the name of "County of Travis."
- (b) When a vehicle or helicopter is sold in compliance with Texas Local Government Code, Chapter 263, subchapter D, or other applicable law, the

Commissioners Court authorizes the Purchasing Agent to complete and sign any document necessary to complete the legal transfer of the vehicle or helicopter.