

COUNTY OF RANDALL



PURCHASING POLICY & PROCEDURES MANUAL

Office of the Randall County Purchasing Agent

2014

Randall County
Purchasing Policy and Procedures
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Part 1 – Introduction

Background: This manual provides county departments enough information to make decisions necessary to request the purchase of supplies, materials, equipment and repairs needed to perform the functions of their offices effectively.

Mission: The mission of the Randall County Purchasing Department is to:

- Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to county purchasing
- Provide all vendors equal access to the competitive process for the acquisition of goods and services by the County
- Provide an ongoing supply of quality goods and services to all County offices
- Account for all County assets through an effective fixed asset management system, and
- Protect the interests of Randall County taxpayers without regard to any undue influence or political pressures.

Goals of Public Purchasing: Public purchasing has several goals including:

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

Public purchasing must also ensure:

- 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.)
- Public funds are safeguarded. (Although the Purchasing Department 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.)
- Public spending is not used to enrich elected officials or County employees or to confer favors. (Adoption and implementation of a code of ethics, employee training and awareness of their responsibilities in the public purchasing area accomplish this.)
- Historically underutilized businesses (minority and women-owned) have an equal opportunity in the contract awards process.

Other Duties: In addition to the above, the Purchasing Department is responsible for:

- Interlocal Purchasing Agreements and Cooperative Purchasing Agreements
- Fixed Asset Management
- Disposition of Seized and Abandoned Property
- Auctions of Surplus and Salvaged Property
- General Liability, Property and Auto Insurance Claims, and
- Procurement Card Policy, Procedures and Maintenance

The Randall County Purchasing Department is committed to promoting effective, professional, and consistent procurement, as well as championing the public perception that tax dollars are wisely spent.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to ensure that the process is orderly and lawful.

The purchasing manual is not static. Purchasing procedures in Randall County will change as needed, particularly evolving to incorporate technological advances and changing laws.

Laurie Jones
Randall County Purchasing Agent

Part 2 – Purchasing Authority and Policy

Purchasing Laws: The Texas Legislature has enacted purchasing laws. It is the policy of Randall County, acting through its duly-appointed Purchasing Agent, to comply fully in all aspects with these laws as they are amended from time to time.

The Purchasing Department, as well as officials, supervisors and employees, will provide equitable and competitive access to the County procurement process for all responsible vendors. County procurement will also be conducted in a manner that promotes and fosters public confidence in the integrity of the County's procurement process.

Purchasing Policy: The purpose of the County Purchasing Policy is to:

- Seek the best quality, lowest-priced goods and services that meet the needs of the County and its personnel;
- Provide all responsible vendors and contractors, including HUB's, equitable access to servicing the needs of the County and its personnel through competitive acquisition of goods and services;
- Comply with all federal and state laws that apply to county purchasing and comply with the policies and procedures in this manual;
- Manage the County's assets and inventory so that replacement costs are minimized and the County can account for all assets; and
- Dispose of all surpluses, salvage, seized and abandoned property in a manner that not only provides the most benefit to the taxpayers of the County, but also complies with the law.

These policies and procedures are adopted by the Randall County Purchasing Agent and approved by the Commissioners' Court under the authority of the Texas Local Government Code, Chapter 262.

Effective Date: These policies and procedures shall become effective upon approval by the Commissioners' Court.

Precedents and Interpretation:

- These policies and procedures shall be interpreted liberally to accomplish their purpose.
- If there is any conflict between the policies and procedures and a State law, or a rule adopted under a State law, the stricter of the two provisions prevails.
- The masculine, feminine, and neuter genders shall be interpreted to include the other genders as required. The singular and plural shall be interpreted to include the other number as required.
- 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.
- 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.

- 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.

Part 3 – Randall County Purchasing Code of Ethics

Policy: Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules and responsibilities to govern the behavior of purchasing employees. It is the policy of Randall County that the following ethical principles govern the conduct of every employee directly or indirectly involved in the County procurement process.

The following is adapted from the American Bar Association's 2000 Model Procurement Code for State and Local Governments:

Public employment is a public trust. It is the policy of Randall County to promote the objective of protecting government integrity and the objective of facilitation the recruitments 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.

Public employees must discharge their duties impartially so as to assure 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 Randall County procurement process.

To achieve the purpose of this policy, it is essential that those doing business with the Randall County Purchasing Department also observe the ethical standards prescribed in this policy.

Responsibility to County: Employees shall avoid activities that compromise or give the perception of compromising the best interest of Randall County. Employees shall not knowingly use confidential proprietary information for actual or anticipated personal gain.

Conflict of Interest: Employees shall avoid activities that would create a conflict between their personal interests and interest of Randall 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:

- The employee or any member of the employee's family has a financial interest in the results of the County procurement process;
- A business or organization in which the employee, or any member of the employee's family, has a financial interest in the result of the County procurement process; or
- 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.

If conflicts of interest exist, the employee shall notify the Purchasing Agent in writing and remove him or herself from the County procurement process.

Conflict of Interest Disclosure: State law (Chapter 176 Local Government Code) requires the filing of conflict of interest questionnaires by certain individuals and businesses.

The questionnaires require disclosures describing certain business and gift giving relationships, if any; the filers may have with commissioners' court members, the purchasing agent and other elected/appointed officials.

The law applies to:

- Businesses and individuals who contract with the County,
- Businesses and individuals who seek to contract with the County, (regardless of whether a bidder is awarded the contract), and
- Agents who represent such businesses in their business dealings with the County.

Compliance is the individual responsibility of each individual, business, and agent who is subject to the law's filing requirement.

If you are required to file a Conflict of Interest Questionnaire, you should file with the Randall County Clerk by mailing it to the county clerk's office at 2309 Russell Long Blvd., Canyon, TX 79015.

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

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 \$50.00 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.

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.

Confidentiality Memorandum: The Randall County Purchasing Department uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. 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 an award is approved by the Commissioners' Court.

- All information in the vendor's response is to be kept confidential.

- No discussion of the proposal is to occur with anyone outside of the proposal evaluation committee members.
- Proposal responses are not to be reproduced and will be returned to the designated Purchasing Department staff after evaluation is completed.
- The Purchasing Department is the sole point of communication for any questions from vendors that arise during the evaluation. All questions and requests for information should be referred to the Purchasing Department. No discussions between evaluation committee members and vendors should take place during the evaluation and award process.
- Evaluation committee members must be familiar with and read the Randall County Purchasing Code of Ethics and agree to comply with its requirements including reporting any potential conflict of interest, undue influence from vendors, or attempted communications from vendors during the evaluation process.

Part 4 – Purchasing Agent Authority and Responsibilities

Appointment: The Purchasing Board, composed of three District Judges plus the County Judge, appoints the Purchasing Agent for Randall County to a two-year term and approves the budget for the Purchasing Department, including the Purchasing Agent’s salary.

Statutory Authority and Duties: Texas Local Government Code, Chapter 262, Subchapter B, outlines the following duties for purchasing agents:

- 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.*
- 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.
- A purchase made by the Purchasing Agent shall be paid for by a 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 a warrant for a purchase unless the purchase is made by the Purchasing Agent or on competitive bid as provided by law.
- 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.
- 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 with a list of transferred goods.
- Subject to Commissioners’ Court approval, the Purchasing Agent shall adopt the rules and procedures necessary to implement the agent’s duties.

- 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.

Additional duties: In addition to these statutory duties, the Purchasing Agent:

- Develops, implements, and manages a Fixed Asset Management System;
- Encourages and supports compliance with Texas purchasing laws;
- Works in conjunction with the Auditor and other County officials in the development of efficient financial processes; and
- Promotes local business participation in the County procurement processes.
- Interlocal Purchasing Agreements and Cooperative Purchasing Agreements,
- Disposition of Seized and Abandoned Property, and
- Auctions of Surplus and Salvaged Property
- General Liability, Property and Auto Insurance Claims
- Procurement Card Policy, Procedures and Maintenance

Part 5 – Purchasing Process, Roles, and Responsibilities

Purchasing Process: The general purchasing process outlined below contains several stages 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.

Purchasing Process

Step:	Performed by:
Identify requirements and obtain budget	User Department (Purchasing Department may assist)
Define/finalize requirements	User Department and Purchasing Department
Submit requisition outlining requirements for purchasing	User Department
Solicit, advertise, and generate purchase orders and contracts from requisition and send to vendor	Purchasing Department
Deliver goods/service as outlined in Contract and submit invoice	Vendor
Receive goods/service and verify completeness against contract	User Department
Match received amount with invoice and audit	Purchasing Department
Submit payment claim to Commissioners' Court for approval	Auditor
Approve payment of claim	Commissioners' Court
Disburse payment of claim	County Treasurer

User Don'ts: Coordination among many County departments and offices is necessary for the process to work smoothly. To avoid delays and to comply with County policy and state law, user departments should remember the following:

- Do not purchase any goods or services for your own personal benefit.
- Do not obligate the purchase of goods that are delivered for use on a trial basis.
- 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.
- Do not use purchasing strategies that violate the law to avoid competition. Strategies that are prohibited by law include:

- Purchasing a series of component parts that would normally be purchased as a whole (component purchases);
- Purchasing items in a series of separate purchases that normally would be purchased as a single purchase (separate purchases); and
- Purchasing items over a period of time that normally would be done as one purchase (sequential purchases).

A county officer or employer 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, is committing a Class B misdemeanor according to Texas Local Government Code, Section 262.034(a).

Do not violate or authorize the violation of the Purchasing Act. Any person who knowingly violates or authorizes the violation of the Purchasing Act and 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 commits a criminal offense which is a misdemeanor. Each act in violation of the law is a separate offense, Texas Local Government Code, Section 262.011(m).

User Do's:

- *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:
- Soliciting or accepting gratuities of any kind from present or potential contractors which might influence or appear to influence a purchasing decision;
- 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
- Disclosing confidential proprietary information from solicitations to other vendors or using the information for personal gain.
- *Ensure funding is available before submitting a requisition.* The law does not allow expenditures that exceed budgets. Purchasing does not process requisitions for which there is not adequate funding.
- *Plan purchases to minimize the use of emergency and expedited purchases.* Rush purchases are generally more expensive and they delay other requisitions already in the system. Vendors may attempt to charge premium prices for goods and services when there is insufficient time allowed to explore alternative sources or options.
- *Plan purchases to allow sufficient time to process purchase requests.* The Purchasing Department is committed to processing all requisitions within a reasonable amount of time. In general, departments should allow 2 – 4 weeks for all non-contract purchases under \$50,000 and 8 – 10 weeks on all purchases requested over \$50,000 that are not covered by an existing contract. Contract requisitions are generally processed within one day of receipt.
- *Ensure that purchasing policies and procedures are understood before ordering.* Departments must assure that all employees responsible for making department purchase requests (“purchasing liaisons”) have read and understood the purchasing procedures in this manual. Departments should also ensure that liaisons attend any training provided by the Purchasing Department.
- *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 a fixed asset that must be tracked and reported, departments should contact the Purchasing Department to coordinate tagging.

Roles and responsibilities: There are specific roles and responsibilities for both user departments and the Purchasing Department 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 Randall County:

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. Works with the Purchasing Department to document needs in writing a specification. 2. Ensures funding (budget) is available to support need. 3. Sends specification and requisition with funding to Purchasing Department. 4. Works with Purchasing Department to develop evaluation criteria/formats (as applicable). 	<ol style="list-style-type: none"> 1. Consults with User Department in development of specification and procurement process to be used. 2. Reviews specification to ensure that it is descriptive and specific but does not prevent competitive bidding of comparable goods. 3. Works with user department to develop evaluation. 4. Prepares agenda item for Commissioners' Court (if applicable).
Solicitation	<ol style="list-style-type: none"> 1. Reviews solicitation documents before issuance to ensure department needs are met. 2. Provides Purchasing Department with a list of potential vendors that can meet the solicitation requirements. 3. Provides technical clarifications to Purchasing Department 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 on the vendor list (and those identified by user department). 3. Advertises solicitation in accordance with State law. 4. Conducts pre-solicitation conferences (where applicable). 5. Provides answers or clarifications to vendors before solicitation closes.

		<ul style="list-style-type: none"> 6. Receives and logs vendor responses. 7. Prepares responses for evaluation and sends to user department.
Evaluation and Negotiation (as applicable)	<ul style="list-style-type: none"> 1. Evaluators from Department sign confidentiality memorandum and send to Purchasing Department (as applicable). 2. Evaluates response based on established evaluation criteria and formats. 3. Completes evaluation and submits recommendation to Purchasing Department. 4. Works with Purchasing Department to develop negotiation strategy (as applicable). 5. Participates as member of negotiating team to negotiate Best and Final Offers (BAFO's) (as applicable). 6. Works with Purchasing Department to co-develop final recommendation for award. 7. Provides information to Purchasing Department to support contract award agenda development. 	<ul 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. 5. Works with user department to develop negotiation strategy (as applicable). 6. Leads negotiating team to negotiate BAFO's (if applicable). 7. Receives BAFO's and co-develops final recommendation for award (if applicable) 8. Prepares contract award agenda request for Commissioners' Court.
Contract Modifications	<ul style="list-style-type: none"> 1. Request modifications in writing to Purchasing Department 2. Reviews draft and final modification to ensure it meets department needs. 	<ul 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 develops Commissioners' Court Agenda item 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 Department of non-performance and provides written documentation outlining details of non-performance (dates, description of problem, etc.). 3. Works with Purchasing Department 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 item for Commissioners' Court action (if required).

Part 6 – Historically Underutilized Business Program

Policy: It is the intent of the Randall County Purchasing Department to ensure a good faith effort is made to assist certified HUB vendors and contractors in receiving contracts in accordance with the HUB Program and the Minority and Women-Owned Business (M/WBE) goals.

The HUB Program and Minority and Woman-Owned Business goals shall be applicable to the eligible procurement dollars spent in the following areas:

- Purchase of supplies, materials, products, services, and equipment;
- Maintenance or service of County assets and property;
- Contracts for professional and non-professional services;
- Contracts for commodities, equipment, supplies or materials;
- Contracts for repair or alteration of real property;
- Contracts for the construction on real property; and
- Contracts for the repair or construction of roads, bridges, or other related structures and surfaces.

Part 7 – Other General Purchasing Policies

Vendor Owing Taxes: Pursuant to Texas Local Government Code 262.026.0267, Randall County Commissioners' Court has adopted a policy which requires that vendors' taxes be current as of the date bids/proposals are due. Bidders with delinquent taxes on the due date will not be eligible for award. Whether or not a vendor's taxes are delinquent will be determined by an independent review of the Tax Office records. Additionally, if during the performance of a contract, a vendor's taxes become delinquent, Randall County reserves the right to provide notice to the Auditor or Treasurer pursuant to Texas Local Government Code 154.045.

County Auditor Funds Verification: According to Texas Local Government Code, sections 113.064 and 113.065, the County Auditor shall:

- Examine and approve each claim, bill and account against the county, and
- Audit and approve only those claims that have been incurred as provided by law, including the laws governing county budgeting and purchasing. Thus, a payment for a purchase that is not included in the county budget, or for which funds is not available, may be disapproved by the County Auditor.

Risk Management Coverage: When departments sustain loss of damage to goods or buildings, and funding for replacement or repair is coordinated through the Purchasing Department, the actual purchase still is processed by the Purchasing Department. Additionally, an Inventory Form is completed by the Fixed Asset Manager when the inventory files are updated, if applicable.

Vehicle Accidents occurring during normal business hours (M-F, 8-5) must be reported within 8 hours to the Purchasing Agent. After normal business hours the accident must be reported in the next business day. Depending on location, a city police, a DPS or Sheriff's department report is required for insurance consideration. Within ten days of the accident, forward to the Purchasing Agent the following information:

- Any city police, DPS, or Sheriff's Department Reports
- Any Departmental incident reports with driver's statement
- Photo of vehicles, if applicable.

After Hours Emergency Purchases: If there is a declaration of a local state of disaster, the County Judge is the authority to approve purchases.

Interlocal Agreements: All Interlocal agreements that involve purchase of goods, services, repair, or maintenance agreements must be submitted to the Purchasing Agent before being submitted to Commissioners' Court for approval. Any purchase from an Interlocal agreement shall be referenced on the Purchase Order.

Bonding Requirements: Bonds for construction contracts are dealt with in Part/Chapter 15. For all other contracts, the Purchasing Agent, with the approval of the Commissioners' Court, determines whether a bond of any sort is required.

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.

Bid Bonds may be requested for the construction of public works, or for a contract exceeding \$100,000. The county may require the bidder 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.

Performance Bonds are not usually required for contracts that are less than \$50,000, but may be required at the Purchasing Agent's discretion, subject to approval by the Commissioners' Court. 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 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.

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.

Best Value: 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. 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:

- Direct and indirect costs
- On-going maintenance and operating cost
- Expected life of the product or service, including warranties
- Capacity for expanding and/or upgrading product or service (such as in software and hardware purchases)
- Reliability factors
- Level of training required by county staff
- Reputation of proposer
- Compliance with the County's contractual terms and conditions

Consideration of Safety Records: If the RFB/RFP states that the safety record may be considered in determining the responsibility of the bidder and includes the Safety Record Questionnaire in its Appendix, Randall County takes into account the bidder's safety record in determining the responsible bidder. The safety record includes compliance with requirements for the safety of the environment. In relation to the safety record, "bidder" includes not only the bidder, but also the firm, corporate partnership or institution represented by the bidder or anyone acting for such a firm, partnership, corporation, or institution.

Ethical Procurement: Randall County departments are encouraged to do business with companies who adhere to the federal and state labor law and regulations including, but not limited to:

- The Fair Labor Standards Act through limiting child labor, requiring payment for overtime work, requiring payment for overtime work and establishing a minimum wage.

- The Occupational Health and Safety Act which requires safe working practices and procedures in all projects.
- Any state or federal law prohibiting discrimination or harassment based on age, gender, race, religion, or national origin in the work place.

Randall County, including the Purchasing Department, is strongly committed to upholding these beliefs in ethical and humane business practices.

Purchasing Card Policy: The Randall County Commissioners' Court has approved the use of a Procurement Card Program for small dollar purchases to increase efficiencies and expedite purchases and payment.

Part 8 – The Requisitioning Process

Definition: Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized.

Purpose: The department's purchase requisition authorizes the Purchasing Department to enter into a contract with a vendor to purchase goods or services. This electronic form is for internal use and cannot be used by a department to order materials directly from a vendor.

Policy: Based on pre-established budget line items, the Purchasing Department enters purchase requisitions into the financial software system. Adequate budget funds must be available in the departmental line items before the requested goods and services can be purchased. Manual purchase orders are not acceptable, unless the Purchasing Agent has approved the manual process in writing.

Procedures: Purchase requisitions should fully describe what to buy, when it is required, and where the goods are to be delivered or the serviced that are to be performed.

After the Purchasing Department receives a purchase requisition, it 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.

Types of Purchase Requisitions: The Purchasing Department classifies purchase requisitions according to the type of action and the time required for the purchase. Four types of contracts exist: contract, routine, expedited, and emergency.

- **Contract Requisitions** – Normal purchases of items ordered from existing contracts. Contract requisitions generally require one working day to process.
- **Routine** – Normal purchases that are not under contract (i.e. "open market" requisitions) under \$50,000. These generally require 3 to 10 working days to process.
- **Expedited** – Open market purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases generally do not qualify as emergency purchases and are subject to all applicable bidding requirements. Expedited purchase requisitions require 1 to 3 working days to process. Expedited purchases are *not* emergency purchases. They are goods or services needed quickly to prevent costly delays, and therefore, warrant the additional cost and effort caused by the interruption of the normal work routine.

- **Emergency** – Purchase of any goods or services needed because of an emergency condition that the Commissioners’ Court has ordered exempt, in compliance with the Purchasing Act (TEX.LOC.GOV'TCODE., section 262.024 (a) (1)). All emergency exemption orders must be processed through the Purchasing Department. Emergency purchases with a total cost exceeding \$50,000 must be exempted from the requirements of the Purchasing Act by order of Commissioners’ Court. The Purchasing agent submits the order and agenda request for Commissioners’ Court approval for emergency purchases exceeding \$50,000. Emergency purchases with a total cost under \$50,000 are handled like an expedited purchase requisition. The user department should immediately contact the Purchasing Agent so that proper action can be initiated immediately.

Note: Cycle time to process a requisition refers to the time between when a purchase requisition is received in the Purchasing Department and when an actual purchase order is placed with a vendor. Cycle time does not include the time required for delivery, or the time it takes for the Purchasing Department or the user department to make corrections to budget line item accounts and similar actions associated with a purchase that are not processed by the Purchasing Department.

Open Market Requisition Checklist

<p>Find the desired item(s) and obtain the following information:</p> <ul style="list-style-type: none"> • Manufacturer Name • Model Number • Stock Number (e.g. 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 Search</p> <p><i>Helpful hint:</i> Copy the model description information from the source and either type it in the requisition or forward via interoffice mail or email to purchasing.</p>
<p>Obtain the full description for the item(s) being purchased</p>	<p>Example of full description for a file cabinet: File Cabinet, Vertical, 2-Drawer, Letter Size, Stock Number, Dimensions 27 ¾”H x 17 11/16”W x 25”D, Color: Steel Gray, Shipping Weight: 320 Lbs., MFG: FireKing P/N FK25</p>
<p>If the vendor is new, obtain the following to enter into requisition:</p> <ul style="list-style-type: none"> • Vendor name • Vendor address • Vendor telephone number • Vendor point of contact • Vendor Federal ID# • Vendor Telephone/Fax number(s) • Vendor Point-of-Contact (whom you talked with to get product information) 	<p>Contact Purchasing Department to verify new vendors</p>
<p>Identify shipping and delivery information</p>	<p>Enter the information on the requisition</p>

including:

- 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, time of day, etc.)
- Any special options available, but not part of description (color, fabric, etc.)

Part 9 – Purchases of Goods and Services Under \$50,000

Policy: For purchases of goods and service totaling less than \$50,000, the Purchasing Agent 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 conclude a contract for the purchase of the goods and services, excluding execution of the contract without specific approval of the Commissioners Court. The claim for payment will be subject to audit by the County Auditor and approval by the Commissioners Court.

Application: The Purchasing Act applies to all departments of the County. Authority to make County purchases resides with the County Purchasing Agent. The Purchasing Agent is responsible for making all purchases of supplies, materials, equipment, and for making contracts for repairs to County owned property. The Purchasing Agent supervises all purchases made by competitive bid to ensure compliance with the purchase contract. General guidelines for purchasing and utilization of this manual are as follows:

1. Generally, competitive bidding is required on any purchase, individual or cumulative, likely to equal or exceed \$50,000. (The competitive bid amount is set by the State Legislature and may be changed by the Legislature. LGC 262.023(a).) Unless a bid contract for the goods or services already exists, the items are required to be purchased through competitive bidding. Questions regarding the necessity of competitive bidding should be directed to Purchasing. Other Purchases - Special procedures are available for and applicable to the purchase of particular goods and services summarized as follows:
 - a. \$0.01 - \$2500.00 - Department is responsible for obtaining competitive price. Departments may use a requisition or the County Purchasing Card for this type of purchase. County Purchasing Card does have a **single-item limit** of \$2500.
 - b. \$2501.00 - \$10,000.00 – Purchasing or requesting department shall attempt to obtain quotes from at least three (3) vendors who have evidenced interest in bidding. Phone quotes and online pricing are acceptable forms of quotes. Phone quotes and online pricing must be notated on requisition.

- c. \$10,001.00 - \$24,999.00 – Purchasing or requesting department shall obtain three written quotes from vendors who have evidenced interest in bidding. Written quotations will be required from all bidders verifying the quoted price, quantity, description, delivery, terms, etc. Online pricing is not an acceptable quote. All quotes must be attached to requisition.
 - d. \$25,000 - \$50,000.00 – Purchasing will obtain written quotes from a minimum of three (3) bidders who have evidenced interest in bidding. A minimum of three (3) bids **must** be received. If a minimum number of bids cannot be obtained, a written explanation shall be furnished. Quotes will be kept filed in the Purchasing Dept.
- 2. Unbudgeted Capital Expenditures - purchases not authorized in a department's current budget must be authorized through a budget amendment by the Commissioners' Court.
 - 3. Blanket Purchase Orders - acquisition of goods or services on an “as needed” basis may be authorized in appropriate instances by a blanket purchase order.
 - 4. Competitive Proposals - as an alternative to competitive bidding, (LGC 262.030) competitive proposals from vendors may be solicited by the County.
 - 5. Professional and Personal Services - Professional and Personal Services are exempted from competitive bidding, in which case they may be obtained through Requests for Proposals or Requests for Qualifications.
 - 6. Emergency Purchases - items otherwise required to be competitively bid may be exempt from the competitive bidding process by the Commissioners' Court if (1) 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, (2) the purchase is necessary to preserve the public health or safety of County residents, or (3) the purchase is required due to unforeseen damage to public property.
 - 7. Sole Source Items - an item available from only one source may be purchased without competitive bidding, with the approval of both the Commissioners' Court and County Purchasing Agent.
 - 8. Equipment Maintenance Services - Maintenance is arranged through the Purchasing Department.
 - 9. Personal Property Sold - Personal property sold at auction, at a going out of business sale or by another government entity may be purchased without competitive bid.
 - 10. State of Texas: Department of Information Resources (DIR) - Items authorized to be purchased through DIR program are purchased through guidelines established by the Purchasing Agent.

Considerations: In selecting the exact goods or services requested by the user departments, the Purchasing Agent considers the following:

- The stated needs of the user department and whether the selected goods or services meet those needs;
- Available information about sources and prices of the goods and services;
- The delivery requirements of the vendor and the user department; and
- Any other information that a reasonable and prudent purchasing professional would consider in all the circumstances of the purchase.

Procedures: The user department submits a purchase requisition to the Purchasing Department with detailed descriptions of the goods or services required.

Based on the information in the purchasing requisition, wherever reasonable and practical, the Purchasing Agent or Purchasing Department:

- Attempts to obtain at least three quotations;
- Documents in writing the vendors notified and prices offered;
- Selects the vendor who makes the best offer taking into account not only price but also the urgency of the user departmental need, the speed of delivery, the quality of the goods and services offered; and
- Orders those goods and services from the vendor who provides the quality, cost, and delivery schedule most consistent with the best interest of the County.
- Submits Requisition with all documentation to Purchasing.

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 in the quotation documentation to indicate the reason another vendor is selected.

The Purchasing Agent may deviate from the policy for purchases under \$50,000 if it is in Randall County's best interest and if it facilitates specific County operations. A purchase of this type will be communicated to the department head or his/her designee.

Commodity Purchase Limits: *Important – If cumulative purchases, including all separate, sequential and component purchases, of items are anticipated to exceed \$50,000 in a fiscal year, then formal bidding is required and an annual term contract is established. Cumulative purchases include countywide purchases and are not limited to departmental requirements (e.g. fuel, tires, and office supplies).*

Violations and Penalties: Intentionally separating purchases or invoices to avoid the \$50,000 formal competitive bidding limit is a violation of the Purchasing Act. The final conviction of a County officer or employee for this violation results in the immediate removal from office or employment. For four years after the final conviction, the removed officer or employee is ineligible:

- To be a candidate for or to be appointed or elected to a public office in Texas;
- To be employed by Randall County; and
- To receive any compensation through a contract with Randall County.

Part 10 – Specifications

Definition: A specification is a concise description of goods or services that user departments seek to buy, and the requirements the vendor must meet to be considered for the award. A specification may include requirements for testing, inspection, or preparing any goods or devices for delivery, or preparing or installing them for use. The specification is the total description of the goods and services to be purchased.

Purpose: The primary purposes of any specification is to provide vendors with firm criteria about a 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:

- Promotes competitive bidding, and
- Provides a means to make an equitable award to the lowest and best bid from a responsible bidder.

Preparation: In writing specifications, user departments are encouraged to obtain any existing specifications before requesting Purchasing to write a new one. The existing specifications can provide ideas and examples that can be customized for Randall County purposes. The user department should contact the Purchasing Department for assistance in obtaining existing specifications to facilitate the specification development process.

To ensure compliance with legal purchasing requirement, the Commissioners' Court has final acceptance of the specifications. This ensures proper quality control and avoids the proliferation of conflicting specifications in the different County departments. The Auditor may submit any purchases that were not approved in the budget process to Commissioners' Court before specifications are prepared and advertised so the Commissioners' Court may determine whether to transfer funds or amend the budget to make the purchase.

Characteristics: An effective specification has the following characteristics:

- *Simple:* Avoids unnecessary detail, but is complete enough to ensure that purchased goods and services satisfy their intended purpose.
- *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.”
- *Accurate:* Uses units of measure that are compatible with industry standards, identifies all quantities, and describes packing requirements.
- *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.

Types: The Purchasing Department uses a number of specification types:

- *Design:* Details description of a good or service, including details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items and many services.

- *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.
- *Brand Name or Equal*: Lists goods and 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 Department uses this method only if there is sound justification. The burden of justification rests with the user department.*
- *Industry Standard*: States an industry standard that is identical, regardless of manufacturer that results in acquisition of goods of uniform quality. The UL standard for electrical products is an example of an industry standard.

Part 11 - Competitively Solicited Purchases Exceeding \$50,000

Definition and Use: There are two types of solicited purchases: 1. Competitive bidding and 2. Competitive proposals. Competitive bidding means letting available vendors compete with each other to provide goods or services. Texas courts define this concept as follows:

“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 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).

Purpose of Competitive Bidding: Texas courts also state:

“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 taxpayer and property owners.” Sterrett v. Bell, 240 S.W. 2d 516 (Tex. Civ. App. – Dallas 1951, no writ).

The first purpose of competitive bidding is to ensure the best possible value is received. Competitive bidding also increases the likelihood that public monies are spent properly, legally, and for public projects only.

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.

Competitive Bidding: The term “Formal Competitive Bidding” used in this manual is generally used in public purchasing when the bidding process complies with Texas Local Government Code, section 262.023, which requires approval by the Commissioners Court.

“Sealed” bids are solicited through a Request for Bid (RFB) for contracts expecting to exceed \$50,000. The RFB is the document used to solicit bids from vendors in response to the County’s specifications and contractual terms and conditions. The Purchasing Department along with the Official or Department Head suggest award recommendations to the Commissioners’ Court. *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.

The RFB is the most preferred method of procuring goods and supplies and non-personal services such as pest-control services. It is used when the requirement can be definitively described, is readily available, and is an off-the-shelf kind of requirement.

Competitive Proposal: The term “Formal Competitive Proposal” used in this manual is generally used in public purchasing when the solicitation process complies with Texas Local Government Code, section 262.030, which requires approval by the Commissioners’ Court.

Competitive proposals are solicited through a sealed Request for Proposals (RFP) process. Vendors submit responses to the RFP for consideration. The RFP solicits proposals from vendors in response to the County’s requirements and contractual terms and conditions. A formal contract, reviewed by the County Attorney’s Office, must be approved by the Commissioners’ Court.

Formal “sealed” proposals may be used to procure *insurance, high technology goods and services, landscape maintenance, travel management, and recycling*. *In addition, this method may be used to purchase other items when the County Official who makes purchases for the County determines, with the consent of the Commissioners’ Court, that it is in the best interests of the County.*

“High technology” goods or services mean goods or services of a highly technical nature, including:

- Data processing equipment and software and firmware used in conjunction with data processing equipment;
- Telecommunications, radio, and microwave systems;
- Electronic distributed control systems, including building energy management systems; and
- Technical services related to those goods and services.

While the competitive proposal (RFP) process is similar to the competitive bidding (RFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated procurement. 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. Proposal contents are not always disclosed until after the contract is awarded. Proposal contents that are trademarked or proprietary may remain confidential pursuant to the Texas Public Information Act (Chapter 552, Texas Government Code).

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

Defining the Need:

RFB: When the need for a good or service costing more than \$50,000 is identified, the user department should immediately contact the Purchasing Department for assistance in developing the specifications. The specifications should be comprehensive and broadly defined to allow for maximum competition.

RFP: When the need for the goods or services (greater than \$50,000) is identified, the user department should immediately contact the Purchasing Department 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 defines its needs and requirements. Purchasing Department staff ensures that the SOW or Technical Requirement is quantified and structured to:

- Secure the best economic advantage utilizing best value;
- State the needs clearly;
- Be contractually sound;
- Be unbiased toward vendors;
- Encourage innovative solutions to the requirement described; and
- Permit free and open competition to the maximum extent reasonably possible.

Purchase Requisition: A written memo submitted to the Purchasing Agent and signed by the official or Department Head or a direct email from the Official or Department Head serves as the initial purchase requisition for goods or services. The memo must include the budget line items from which the purchase is funded or an explanation about how funding is obtained before the Purchasing Department proceeds with the preparation of the competitive solicitation.

Requirements or specifications should be attached to the memo and forwarded electronically to the Purchasing Department. If requirements are not attached, Purchasing and the user department jointly develop them.

The Purchasing Department does not proceed with a purchase unless:

- The appropriate budget line item includes sufficient unencumbered funds for the purchase; or
- The Auditor's Department verifies that funds are available through transfers.

Specifications: Once the Purchasing Department has finalized the specification or requirements with the user department, the Purchasing Department acquires approval of specifications from Commissioners' Court and publishes a notice of the proposed purchase that complies with the requirements in Texas Local Government Code, section 262.025.

According to section 262.025, 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 opening. If necessary, advertising time can be extended. The notice must include:

- The specifications (requirements) describing the goods and services to be purchased, or a statement of where the specifications (requirements) may be obtained;
- The time and place for receiving and opening solicitations and the name and position of the employee to whom the solicitations are sent;
- Whether the vendor should use lump-sum or unit pricing;
- The type of bond required of the vendor; and
- The method of payment by the County.

Special Considerations: RFB: If unit pricing is required, the County must specify approximate quantities estimated on the best available information. The Purchasing Agent explains how the lowest price is calculated in the RFB.

RFB:

- The Purchasing Department publishes a notice of the proposed purchase after Commissioners Court approval of the RFB.
- The Commissioners Court must approve advertising for any RFB for which there is not adequate funding approved in the budget and for which Auditor has not verified that the goods and services sought have been approved by the Commissioners Court in the budget process.
- If the RFB is for high technology goods and services, IT must review it before it is advertised.
- Record Management may also review any technology purchases related to records management.
- For all other purchases, the Commissioners Court delegates its authority to approve the requirements to the Purchasing Agent.

Amendment of Solicitation: The Commissioners; Court authorizes the Purchasing Agent to extend the proposal opening date on the notice of a solicitation if an error is discovered, or the nature of the goods and services requires an extension. The Purchasing Agent may amend a solicitation:

- If inquiries about the meaning indicate the need for an amendment to clarify its original intent or to correct clerical errors;
- If the changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- If the amendment does not change the general scope.

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.

Pre-Bid (Proposal) Conference: Texas Local Government Code, Section 262.0256 allows counties to require potential vendors to attend a mandatory pre-bid (pre-proposal) conference to discuss contract requirements and answer vendor questions. The Purchasing Agent works with the user department to determine if a pre-bid (pre-proposal) conference is necessary and whether attendance is mandatory or optional. Purchasing staff manages any pre-bid (pre-proposal) conference and requests that the user department makes staff available to answer questions at the conference.

Receipt of Competitive Solicitations: To ensure the identification, security, and confidentiality of responses to solicitations, the following procedures are adhered to:

- The Purchasing Agent receives all responses as specified by the solicitation document.
- *Solicitations are not received after the opening time on the day of response opening.* All responses received after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response was received after the due date and time.

- The Purchasing Department records the time and date the response was submitted.
- After a response is received, the Purchasing Department provides a secure place to hold it until the opening date. The responses are only received sealed and remain sealed until the Purchasing Department opens them in a public forum on the advertised date and time.

On occasion, 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 Department 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 re-sealed by that employee of the Purchasing Department, and the incident is documented.

The above process is undertaken to preclude any perception of favoritism, revealing prices or response information. Publicly receiving sealed responses and recording the submission of requested responses is intended to inhibit any perception that the Purchasing Department is manipulating the receipt of solicitations.

Public Opening of Solicitations:

RFB: The Purchasing Agent publicly opens and documents the bids on the date, time, and place specified in the notice. Preliminary tabulations are provided to the public upon request.

RFP: The Purchasing Agent publicly opens and documents sealed proposals on the date, time, and place specified in the notice. Only the names of vendors submitting proposals are announced.

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 proprietary information contained in them. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality memorandum: RFP – AS fully described in Part 3 of this manual, the Purchasing Department uses a confidentiality memorandum to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the competitive process to keep information confidential *until the Commissioners' Court approves an award*. These requirements also include disclosure of any potential conflict of interest or any attempted communication by the proponent to evaluation committee members during evaluation.

Evaluation:

RFB: The Purchasing Department evaluates all bids with assistance from the user department and recommends the lowest responsible bid to the Commissioners' Court for award. The Purchasing Department evaluates bids based on:

- 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;
- The compliance of goods and services with specifications; and

- The vendor’s past performance, 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.

The Purchasing Department forwards copies of the bids and the Bid Tabulation Package to the Official or Department Head for completion and signature. The user department recommendation and other appropriate documentation from the user department are submitted with the agenda request to justify the recommended award.

When the lowest-priced bid is not the best 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.

RFP: The Purchasing Department 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 evaluation assistance provided by the County Attorney, Auditor, IT or Maintenance, if applicable.

The RFP must specify the relative importance of price and other evaluation factors including the relative weight of each factor. Evaluators only use these specified factors in evaluating the proposals. Purchasing staff leads the evaluation team and is responsible for

- Tabulating scores;
- Calculating values; and
- Either
 - Coordinating follow-up meetings for Best and Final Offer negotiations and recommending an award; or
 - Discontinuing the process.

Note: 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.

Negotiations (RFP): The Purchasing Agent supervises all negotiations. Any conversations with proposers must be coordinated with the Purchasing Agent. *A member of the Purchasing Department should be present for all discussions with proposers.* Departments that contact proposers without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.

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).

After the negotiations are complete, the Purchasing staff requests qualified proposers to submit a BAFO to a specified location by a specified date. Based on the negotiations, the BAFO must allow the proponent to:

- Modify the initial offer;
- Update pricing based on any changes the user department or County has made; and
- Include any added inducements to improve the overall score in accordance with the evaluation plan of the RFP.

Contract Award:

RFB: The Purchasing Agent and Department recommends contract award to Commissioners’ Court. The Commissioners’ Court either:

- Awards the contract to the responsible bidder who submits the lowest and best bid; or
- Rejects all bids and directs publication of a new notice if the goods or services are still needed.

If two or more responsible bidders submit the low and best bid, the Commissioners’ Court decides between the two by drawing lots in a manner prescribed by the County Judge.

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.

After Commissioners’ Court approves the contract, the Purchasing Agent issues a Notice of Contract Award, in the form of a Purchase Order. This notice and the original contract, form the complete contract. A complete original contract is maintained in the Purchasing Department. The other original is furnished to the Contractor.

RFP: The BAFO is the basis of a recommendation of 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 evaluation factors in the RFP.

Re-solicitation of Annual Contracts: - The Purchasing Department monitors the expiration dates of all contracts. Purchasing notifies user departments by memo at least three months before contract expiration and verifies whether the goods or services need to be re-bid or extended, if extensions are available. It is very important that renewable contracts be reviewed carefully, since the Texas Constitution requires all contracts involving the expenditure of public money be subject to termination if current funds are unavailable to pay the contractual costs, so the County does not incur unauthorized debt.

Procurement Methods

Competitive Bids (Request for Bids)	Adequate competition exists. 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.	Defined specifications may be difficult to develop. Does not encourage innovative solutions.
Competitive Proposals (Request for Proposals, Request for Offer)	When factors other than price are evaluated. When negotiations are desired. Vendor is expected to	Allow factors other than price to be considered. Allows for customized proposals suggesting different	RFP’s can only be used for high technology goods and services, landscape maintenance, travel management,

	provide innovative ideas.	approaches to the same business need. Allows for negotiations in order to obtain the best value for the County.	recycling, and other items. Lead times for procurement may be greater. Evaluations are more complex and subjective. Lengthens the procurement process.
Request for Information	There is insufficient information to write specifications for any procurement method.	Provides information to prepare a complete bid or proposal document. Allows the business community to have input into the solicitation document based on current industry practices and market factors. Informs County of any potential problems early in the procurement.	
Request for Qualification (This method is required by statute (e.g. Professional Services)	Selection is made solely on the skills and qualifications of the contractor. Price is not a factor until after a vendor is elected.	Emphasizes the competency of the proposed contractors.	Contractor is selected before price is negotiated.

Part 12 – State Purchasing Programs

Background and Statutory Authority: There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously competed by the State of Texas or other governments. The Texas Comptroller of Public Accounts Procurement and Support Services (TPASS) manage two of them. The third program allows local governments to purchase computer technology directly from the State’s Department of Information Resources (DIR).

- *State Term Contracts* (authorized by sections 271.081 through 271.083 of the Texas Local Government Code). The County may purchase from vendors on the same terms and conditions as the State. The State has entered into term contracts after using competitive bidding procedures. The TPASS manages this program for the State.
- *Texas Multiple Award Schedule (TXMAS)* (authorized by section 2155.502 of the Texas Government Code). 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.

- *DIR* (authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code). The County may purchase computer-related equipment through the DIR and its contracted vendors.

Official Representative: The Purchasing Agent acts for Randall County in all matters related to purchase of goods and services from a vendor under any contract based on any State Purchasing Program. Randall County is responsible for making payments directly to these vendors.

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

State Term Contract Purchases

Policy: Randall County participates in the purchasing program of TPASS for local governments.

Procedure: The Purchasing Agent either submits requisitions to the TPASS under a contract or electronically sends purchase orders directly to 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 service. The Purchasing Agent may sign and deliver all necessary documents for all purchases under this program made for the County.

To initiate this process, the user department submits a purchase requisition. The Purchasing Department determines whether or not the requested goods or services are available from TPASS contracts. If they are available, the Purchasing Department assigns a state requisition number that is used for reporting and payments.

Texas Multiple Award Schedules (TXMAS) Purchases

Policy: Randall County participates in the purchasing program of the TPASS using TXMAS contracts developed from contracts that have been competitively awarded by the federal government or any other governmental entity of any state.

Procedure: 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 for Randall County.

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 purchase requisition and identifies in the requisition comments that the good or service may be available through TXMAS. The Purchasing Department 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 Department

works with the user department to determine best value and then issues a purchase order with the selected vendor providing the best value.

Department of Information Resources (DIR) Purchases

Policy: The County can make purchases of 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 Go DIRect program.

Procedure: The Purchasing Agent either submits requisitions to the DIR under any contract or electronically sends purchase orders directly to DIRect 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 made on behalf of the County.

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. Based on its research, the user department submits a purchase requisition and identifies in the requisition comments that the good or service is available from DIR. The Purchasing Department determines whether or not the requested goods or services are available from DIR, and if available, the Purchasing Department compares prices among DIR vendors to obtain the best value. The Purchasing Department works with user department to determine best value and issues a purchase order with the selected vendor providing the best value. For larger, more complex IT purchases, the Purchasing Department works with the County Attorney's Office on a supplemental contract to ensure the best interests of the county are covered. The user department should plan their procurements accordingly to allow sufficient time.

If the purchase is from a vendor who is part of the Go DIRect 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 GO DIRect program, the County issues the purchase order to DIR, which authorizes a separate purchase order to the vendor.

Part 13 -- Cooperative Purchasing Agreements

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 services under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of goods and services. The County must have independent authority to purchase a particular good or service before utilizing an interlocal agreement, since the Interlocal Cooperation Act does not expand the County's purchasing authority. The County has a variety of interlocal agreements.

Policy: The County participates in the purchasing programs of various local, state, and national cooperatives such as Houston Area Council of Governments (HGAC), Texas Association of School Boards (BuyBoard), The Cooperative Purchasing Network (TCPN) and U.S.

Communities. 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.

Official Representative: The Purchasing Agent acts for Randall County at the direction of Commissioners' Court in all matters relating to all cooperative purchasing programs, including the purchase of goods and services from the vendor under contract.

Procedure: The Purchasing Agent must approve all interlocal agreements involving the purchase of goods, repair, or maintenance agreements before the agreement is submitted to Commissioners' Court for approval.

The Purchasing Department determines whether or not the requested goods or services are available from a specific cooperative. If available, the Purchasing department compares prices among cooperative and local vendors to obtain the best value. The Purchasing Department works with the user department to determine best value and issues a purchase order with the selected vendor using the purchasing method that provides the best value.

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. The Purchasing Agent monitors vendor compliance with all the conditions of delivery and the quality of the purchased goods and services. The Purchasing Agent may sign and deliver all necessary documents for purchases under cooperative purchasing programs made on behalf of the County.

Contract Award: The Purchasing Agent may execute all contracts for interlocal contract purchases that are procured in compliance with this chapter, excluding 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.

Interlocal Agreements: All interlocal agreements that involve the purchase of goods, services, repairs, or maintenance agreements must be submitted in writing to the Purchasing Agent before being submitted to Commissioners' Court for approval.

Federal Supply Schedules: 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.

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.

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.

Part 14 – Procurement of Professional Services

Background and Statutory Authority: In procuring professional services, the County must comply with two statutes: the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and the County Purchasing Act (Chapter Chapter 262 of the Texas Local Government Code). There are two kinds of professional services:

- Those professional services specifically listed in the Professional Services Procurement Act; and
- 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 attorney general opinions to determine what services are included in these “other” professional services.

“Professional services” is defined in Chapter 2254 of the Texas Government Code as:

- 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
- 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.

Contracts for the procurement of these professional services *may not be awarded on the basis of bids*. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

Request for Qualifications (RFQ): To ensure professional vendors 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.

Procedures: Departments forward a recommendation memo to the Purchasing Agent when professional services are required. The memo identifies the following:

- Scope of work
- Qualification and experience requirements
- Project description and deliverables
- Time frames
- Budgeted amount and budget line items
- Suggested professionals

Based on the information provided in the memo, applicable state laws, and all relevant facts, the Purchasing Agent makes a determination about implementing a formal RFQ or an informal procurement process.

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. The Purchasing Agent requests a formal exemption from the Commissioners' Court for approval before selecting and negotiating with any vendors. The Purchasing Agent submits the exemption request to the Commissioners' Court for approval before selecting and negotiating with any vendors.

Purchase Requisition: Either the memo submitted to the Purchasing Agent, signed by the official or Department Head or a direct email from the Official or Department Head serves as the initial requisition. The memo must include the budget line items from which the purchase is funded or an explanation that is acceptable to the Purchasing Department about how funding is obtained before the Purchasing Department proceeds with the preparation of the RFQ. Requirements (scope of work) should be attached to the memo and also forwarded electronically to the Purchasing Department. If requirements are not attached, Purchasing and the user department jointly develop them.

Notice: After development of requirements and preparation of the RFQ, a notice of the proposed purchase is published by the Purchasing Department 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.

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 opening. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

Amendment of RFQ: 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:

- Inquiries about the meaning of the RFQ indicate the need for an amendment;
- Changes are so insignificant that they are not likely to matter to the vendor in determining ability to respond; and
- The amendment does not change the general scope of the RFQ.

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.

Pre-Proposal Conference: The Purchasing Agent works with the user department to determine if a pre-proposal conference is necessary. Purchasing staff manages any pre-proposal conference and requests that the user department makes staff available to answer questions at the conference.

Receipt of Responses: To ensure confidentiality, the following procedures are adhered to when receiving vendor responses:

- The Purchasing Agent receives all responses as specified by the RFQ.
- All responses are stamped with the time and date received. The “Date Stamp Clock” in the Purchasing Department serves as the *official* time clock for identifying the date and time a response is received in the Purchasing Department.
- *Responses are not received after the opening time on the day of opening.* All responses received after the opening time are returned unopened to the vendor with a letter from the Purchasing Agent notifying the vendor that the submitted response was received after the due date and time.
- After responses are received, the Purchasing Department keeps them secured until the opening date. The responses are to be received sealed and remain sealed until they are opened by the Purchasing Department on the advertised date and time.
- 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 Department 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.

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 inhibit any perception that the Purchasing Department is manipulating the receipt of the responses.

Opening of Responses: Sealed responses are opened and documented by the Purchasing Department. Only the names of vendors submitting responses are announced. The Purchasing Agent opens the responses on the date specified in the notice.

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 proprietary information. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Confidentiality Memorandum: As described in Part 3 of this manual, the Randall County Purchasing Department uses a confidentiality memorandum to ensure that proprietary information is kept confidential. Before the evaluation of confidential proposals begins the Purchasing Department sends a memorandum to evaluation committee members for signature and certification. The memorandum contains requirements to which the evaluation committee member is expected to adhere during the evaluation process to keep information confidential *until the Commissioners’ Court approves an award.* This memorandum includes disclosure of any potential conflict of interest, or any attempted communication by the vendor to evaluation committee members.

Evaluation: The Purchasing Department supervises the evaluation process performed by the user department or 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 technical evaluation assistance provided by the Auditor or IT if applicable.

The RFQ must specify the evaluation factors to be used to determine minimum qualifications. Price is not a factor in this type of solicitation. Evaluators may use only the specified evaluation factors in evaluating the responses. Purchasing staff leads the evaluation team and is responsible for:

- Tabulating scores;
- Calculating values; and
- Either
 - Coordinating follow-up meetings for Best and Final Offer (BAFO) negotiations and recommending an award; or
 - Discontinuing the process.

After the evaluation has been completed, Purchasing forwards an evaluation summary to the Official or Department Head for concurrence with the selection and requests that the Official or Department Head submit a memo to the Purchasing Agent with their recommendation. Purchasing makes the recommendation to Commissioners' Court.

Note: 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.

Negotiation and Best Final Offer (BAFO): The Purchasing Agent supervises all negotiations. All conversations with proposers must be coordinated with the Purchasing Agent. A member of the Purchasing Department should be present for all discussions with proposers. Departments that contact proposers without coordinating with the Purchasing Agent risk jeopardizing the integrity of the County procurement process.

All vendors must be accorded fair and equitable treatment with respect to any opportunity for discussion and revision of responses and submittal of BAFO.

After the negotiations are complete, the Purchasing staff requests qualified vendors to submit a BAFO by a specified date and to a specified location. Based on the negotiations, the BAFO must allow the proponent to:

- Modify the initial offer;
- Update the response based on any changes the user department or the County has made; and
- Include any added inducements that may improve the overall score based on the evaluation plan of the RFQ.

Recommendation for Award: The Purchasing Agent works with the Official or Department Head to develop the recommendation for award and present it for approval to the Commissioners' Court.

Professional Services "Pools": If, as a result of an RFQ, County enters into contracts with more than one qualified professional vendor, a pool of these professionals is created to provide services as needed. The user department must ensure that an RFQ is distributed at least once every 4 years so that newly-qualified professionals may be added to the pool.

Architectural and Engineering Services: When procuring architectural or engineering services, the County follows the RFQ process described above and adds a second step. First,

vendors responding to the RFQ are evaluated. The Purchasing Department works with the evaluation committee to develop a rank ordering of vendors. Based on the committee's evaluation of responses, they identify the "most highly-qualified" vendors with whom the County wishes to negotiate. The Purchasing Agent recommends to Commissioners' Court the most highly qualified vendors and requests authorization to negotiate on the basis of demonstrated competence and qualifications. The Purchasing Agent and Official or Department Head enter into negotiations with the most highly-qualified vendor for a contract at a fair and reasonable price.

If the County is unable to negotiate a satisfactory contract with the most highly-qualified vendor for a contract at a fair and reasonable price, negotiations formally end with that vendor. The next most highly-qualified vendor is then asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

Any contract with professional vendors based on a competitive bid is void because it is contrary to state law.

Written Contract: Before any services are rendered, a contract for professional services, in writing, is 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 Auditor's Department 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.

"Other" Services Defined: As defined in this manual, "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 are predominantly mental or intellectual, rather than physical or manual; or a special skill and experience. "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.

Part 15 – Construction Procurement

Purchasing Statutes: Subsection 262.011 (e) of the Texas Local Government Code states that "The County Purchasing Agent shall supervise all purchases made on a competitive bid..." Texas Government Code, Chapter 2267, is used when an alternative project delivery method (other than traditional competitive bidding) is used for public works projects.

Construction procurement is consistent with other procurement procedures in this manual and with pertinent statutes. The Purchasing Agent supervises all construction procurements. All competitive bids are accomplished by the following process:

Purchasing Requisition: A memo submitted to the Purchasing Agent, signed by the Elected Official/Department Head or as directed by the Commissioners' Court serves as the initial notification that a competitive bid is needed. An electronic copy of the notification may be submitted to assist in the development of the formal bid. Before the formal bid is released, the

Purchasing Agent and County Attorney review and approve the Bidding and General Requirements. The Purchasing Agent reviews the bid specifications for compliance with the Purchasing Act and the County Attorney reviews them for legal considerations.

The user department must provide the Purchasing Department at least thirty (30) workdays to develop the RFB and circulate it for the appropriate reviews. During this time, Purchasing develops a Procurement Schedule detailing the milestones of the solicitation, including dates and times for the pre-bid conference, bid opening, and preconstruction conference. The Purchasing Department assigns an RFB number to the project at this time if it has not already been assigned.

Bidding Notice: The Purchasing Department publishes the advertisement for bid, which must include the following:

- Description of work;
- Location at which the bidding documents, plans, specifications, or other data may be examined. The location at which plans and specifications may be obtained and the amount of the deposit required;
- Time and place for submitting bids and time and place of bid opening;
- The method of payment. If payment is by certificate of obligation, the advertisement must state either
 - That the bidder must accept certificates, or
 - That the bidder must elect to accept certificates or assign them to a financial institution with which the county has made an arrangement.

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 that are to be bid on and the quantities must be based on the best available information.

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 bid opening. If necessary, advertising time can be extended or decreased, but must be at least 15 days.

Consideration of Safety Records: If the RFB states that the safety record may be considered in determining the responsibility of the bidder and includes the Safety Record Questionnaire in the RFB, County takes into account the bidder's safety record in determining the responsible bidder. The safety record includes compliance with requirements for the safety of the environment. 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.

Bid Bonds: Bid bonds are not required from any bidder whose rates are subject to regulations by a state agency. If the Purchasing Agent or Commissioners' Court decides that a bid bond is required for a particular contract, the RFB states that a bid bond 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.

Letters of Credit may not be substituted for any bid bonds related to a public works project, if the cost of the project exceeds \$50,000. For all contracts 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:

- Payable to Randall County, Texas,
- In the full amount of the contract,
- Conditioned on faithful performance of the work in accordance with the plans, specifications, and contract documents,
- Solely for the protection of the County,
- Executed by a corporate surety or sureties in accordance with the Insurance Code, and
- In a form approved by the Commissioners' Court.

Any performance bond that is furnished by a contractor 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, limitations on the bonds and remedies provided.

Letters of Credit may not be substituted for any performance bonds related to a public works project if the cost of the project exceeds \$50,000.

Payment Bonds: For all contracts in excess of \$50,000 for the construction, repair, or alteration of a public work or the prosecution or completion of any public work, the vendor, before commencing work, must execute a payment bond that is:

- 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,
- Payable to Randall County, Texas, in the amount of the contract,
- Executed by a corporate surety or sureties in accordance with the Insurance Code, and
- In a form approved by the Commissioners' Court.

Payment bonds must be effective from commencement of performance until the end of the fourth month after all work for the project is complete, 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 Chapter 2253 of the Texas Government Code are construed as if it conforms with that chapter in relation to rights created, limitations on the bond, and remedies provided.

A bond required under this section must clearly and prominently display on the bond or on an attachment to the bond: (1) 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 (2) the toll-free telephone number maintained by the Texas Department of Insurance under subchapter B, chapter 521, Insurance Code, 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.

The County may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

Letters of Credit may not be substituted for any payment bonds, related to a public works project if the cost of the project exceeds \$50,000.

Pre-Bid Conference: The Purchasing Department provides detailed information on the bidding requirements of the RFP to ensure that purchasing procedures are complied with and the user department provides technical information and ensures that technical standards are complied

with. Purchasing schedules the pre-bid conference and assists in conducting the conference as follows:

- Ensuring all attendees sign the attendance roster and provide a detailed Agenda which:
 - Provides a brief introduction of the project title, magnitude, and performance period.
 - Indicates whether there has been any addendum issued, and if so, all attendees and project document holders must receive a copy.
 - Discusses the Purchasing Department role in the procurement and administration process.
 - Establishes a “cutoff” date for questions and request for clarifications, as well as a final date for issuance of addendum.
- Determining whether the project Engineer, Architect or Project Manger have discussed the specifics of the project, including review of the plans and specifications, and facilitating a question and answer session.
- Determining any issues discussed during the conference that requires issuance of an addendum. The Purchasing Agent may extend the date specified in the notice if needed. The Purchasing Department issues the amendment only if there are at least five (5) days between the date of the addendum and the date specified for bid 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.
- Assuring that the user department provided Purchasing with the technical documents (i.e. changes or additions to the plans and or specifications). Purchasing prepares an addendum using the standard form and distributes the addendum to all applicable vendors.
- Recording the minutes of the meeting and distributing them to all attendees.

Receipt of Competitive Bids: The following procedures are adhered to when receiving bids:

- The Purchasing Department receives all bids as specified by the RFP.
- *Bids are not received after the opening time on the day of bid opening.* All bids received after the opening time are returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
- The Purchasing Department records the date the bid was submitted.
- After bids are received, the Purchasing Department provides a secure place to hold the bids until the opening date. The bids are to be received sealed and remain sealed until the Purchasing Department opens them in a public forum on the advertised date and time.
- On occasion, bids that are received in the mail or by some independent carrier may be inadvertently opened. If this situation occurs, another employee of the Purchasing Department is immediately called to act as a witness that the details of the bid, especially the price, were not reviewed, then the bid is sealed again by that employee, and the incident is documented.

The above process shall be undertaken in a manner that precludes any perception of favoritism and avoids revealing bid prices on any bid information. Publicly receiving sealed bids and recording the submission of requested bids inhibits the perception that the Purchasing Department is manipulating the receipt of bids.

Public Opening of Bids: The Purchasing Department publicly opens and documents sealed bids on the date, time, and place specified in the notice. Preliminary bid tabulations are provided to the public upon request. The Purchasing Department is responsible for creating the bid tabulation for distribution to the user department and the general public. For those bids that contain numerous line items, a tabulation that includes the total bid amount, excluding individual line item amounts per bidder, can be provided immediately after bid opening. Requests for all-inclusive bid tabulation are honored after it is completed and may require at least seven (7) workdays.

A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. The Purchasing Agent provides bid tabulation to the Commissioners' Court.

Evaluation of Bids: The Purchasing Department evaluates all bids with assistance from the user department and they jointly develop a recommendation for award to Commissioners' Court. The evaluation of bids is based on the following factors:

- The relative prices of the bids, including the cost or repair and maintenance of heavy equipment if that is subject of the bid, or the cost of delivery and hauling if road construction equipment is the subject of the bids;
- The compliance of goods and services offered with specifications; and
- The responsibility of the vendor, including the vendor's past performance, the vendor's financial and practical ability to perform the contract, and the vendor's safety record if Commissioners' Court has adopted a definition of safety that is stated in the RFP.

Purchasing forwards a complete bid tabulation and award recommendation to the Official or Department Head for review. The bid tabulation and award recommendation is submitted with the agenda request to justify the award. Purchasing is responsible for placing the item on the agenda of the Commissioners' Court.

When the lowest-priced bid is not the best bid, clear justification for not selecting the lowest bidder must be documented to the Commissioners' Court. This recommendation may be supported by clear and concise documentation from the user department that determines 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 Department is required.

Contract Award: The Purchasing Agent and the Elected Official or Department Head recommend contract award to Commissioners' Court in session. The Court shall:

- Award the contract to the responsive and responsible bidder who submits the lowest and best bid, or
- Reject all bids and publish a new notice if the goods and services are still needed.

If two or more responsive and responsible bidders submit the lowest and best bid, the Commissioners' Court shall decide between the two by drawing lots in a manner prescribed by the County Judge.

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.

A Notice-of-Award (NOA) letter, issued by the Purchasing Department, 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 and an Insurance Certificate must be submitted within ten (10) workdays after contractor receipt of the NOA letter. 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. An original contract is maintained in the Purchasing Department. Copies are furnished to the County Clerk, Auditor, County Attorney, and user department.

Pre-Construction Conference: 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 Department ensures that all applicable purchasing procedures are followed. Purchasing assists in conducting the Conference by:

- Having all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project;
- Discussing briefly the contract requirements, amount, and any other pertinent information about the project. The user department representative (technical representative) is responsible for providing a thorough synopsis of contract requirements and any County policies to which contractor must adhere;
- Establishing dates for Submissions of all required documents such as material submittals, progress reports, payrolls (when applicable), etc.;
- Receiving required documents from the contractor, i.e. Performance Bond, Payment Bond, Insurance Certificate;
- Ensuring a complete understanding by all participants on all issues before adjourning;
- Preparing minutes of the Conference, including all technical discussions and distributing them;
- Working 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. *Note: The NTP is not issued until all required bonds and insurance have been received, reviewed and verified with the appropriate agency (i.e. surety or insurance agency).*

Contract Administration: 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 Department 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.

If poor performance or noncompliance 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 discrepancy. The user department solicits Purchasing to initiate corrective action when the user department cannot resolve conflict through correspondence in consultation with the occupant department.

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.

Documentation of contractor performance is often overlooked and is most important if suspension or termination is sought. To enforce contractual terms, documentation of specific noncompliance must be available. Specific dates, locations, examples, etc. must be documented.

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 this it has contracted. Unless otherwise noted, the following are responsibilities of the Purchasing Department:

- Schedule and assist in conducting the preconstruction conference.
- 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, and administration phases of the project.
- Monitor the continued insurance coverage and obtain updated certificates on a timely basis.
- If 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 included in the contract.
- Perform periodic visits to the construction site to perform spot labor interviews to ensure contractor compliance with prevailing labor laws.
- Receive and review copies of 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 Agent verifies in writing that the invoice is appropriate for payment before submitting it to the County Auditor for payment.
- 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 noncompliance between the contractor and the County are directed through the Purchasing Department. This ensures that Purchasing is aware of any directives being issued to the contractor or any potential problems that may occur in the performance of the contract.

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 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 noncompliance 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.

Purchasing maintains all insurance and bond certificates. Bid bonds may be required with all bids over \$50,000 and are maintained in the Purchasing Department. The contractor provides payment and performance bonds within ten (10) workdays after receipt of the Notice-of-Award

letter. They are reviewed by both the user department representative and Purchasing. Originals are maintained in the Purchasing Department. Copies are provided to the user department upon request. Insurance certificates are provided by the contractor during the pre-construction conference. The certificate is maintained in the main contract file in the Purchasing Department.

Change Orders: 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:

- Drawings, designs, or specifications;
- Correction of errors of a general administrative nature or other mistakes;
- Increases or decreases in the quantity of items purchases; and
- Time extensions allowed by the contract terms and conditions.

The Commissioners' Court must approve increases or decreases in cost of \$50,000 or less; however, the original contract price may not be increased by more than 25% 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 the original contract price may not be decreased by 18% or more without the consent of the contractor.

Negotiations of change orders, particularly those which result in an increase in contract price or performance period, or change the scope of the project, require that the Purchasing Department be notified on a timely basis so that the Purchasing Agent can seek Commissioners' Court approval. Purchasing shall be provided a copy of the proposed change order, with available supporting documentation.

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 backup documentation.

Close-Out Procedures: The Purchasing Agent ensures that all applicable warranty certificates are received and safe-guarded throughout the term of the warranty. The Purchasing Department provides copies of the warranty certificates to the user department and the occupant department.

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. The release must state that the subcontractor or materialmen releases Randall County from all claims arising from labor or materials provided for the project.

Part 16 – Exemptions to the Competitive Procurement Process

Purchasing Act: Some goods and services can be exempted from the competitive procurement process if the Commissioners' Court orders the purchase exempt. Section 262.024 of the Texas Local Government 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:

- 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
- Goods and services necessary to preserve or protect the public health or safety of the residents of the county

- Goods and services and services necessary because of unforeseen damage to public property
- Personal or professional services
- Work performed and paid for by the day, as the work progresses to a maximum of 20 days within any three-month period
- Any land or right of way
- Food goods
- Personal property sold at auction by a state licensed auctioneer, in a going-out-of-business sale held in compliance with the Business and Commerce Code, or by a political subdivision, state agency or federal government entity
- Work performed under a community and economic development contract under section 381.004 of the Texas Local Government Code; and
- Renewal of a lease or equipment maintenance agreement if the lease was competitively bid within the last year and the extension does not exceed one year.

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:

- 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;
- Goods and services necessary to preserve or protect the public health or safety of the residents of the County;
- Goods and services necessary because of unforeseen damage to public property;
- Personal or professional services;
- Work performed by the County's employees and paid for as the work progresses;
- The purchase of any land, building, existing utility system, or right of way for authorized needs and purposes authorized under the certificate of obligation;
- 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;
- The sale of a public security as defined in section 1204.001 of the Texas Government Code;
- A contract that is not required to be made in accordance with competitive bidding procedures under the County Purchasing Act.

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.

Procedure: The Elected Official or Department Head submits a memo to the Purchasing Agent requesting an exemption to the competitive procurement process and identifying the basis for the exemption (e.g. emergency, sole source). The memo must state specific details and explain why an exemption from the competitive procurement process should be requested 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.

Emergency: Emergency means circumstances where an immediate response is required to provide for the safety of person or property, but does not include any situation which results in the County Judge declaring a local state of disaster. *Emergency purchases exceeding \$50,000 require an exemption order granted by the Commissioners' Court before a purchase order can be issued.*

Sole-source Goods and Services: Sole-source goods and services require a signed statement from the requesting department about the existence of only one source and specifically noting which type of listed sole source good or service is being purchased. 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. Sole-source items include:

- Goods and services for which competition is precluded from bidding because of the existence of patents, copyrights, secret processes, or monopolies;
- Films, manuscripts, or books;
- Electric power, gas, water, and other utility services; and
- Original equipment manufacturer (OEM) replacement parts for equipment.

Real Property: The Commissioners' Court may purchase Real Property with or without the assistance of the Purchasing Agent. The Commissioners' Court and the County Attorney supervise the lease of Real Property.

Part 17 – Renewal of Equipment Leases and Maintenance Contracts

Statute: The renewal or extension of a lease or of an equipment maintenance contract can be exempted from formal competitive bidding, if the Commissioners' Court orders the exemption *and if:*

- The lease or contract has gone through formal competitive bidding within the preceding three years; and
- The renewal or extension does not exceed a one year period.

Policy: The Purchasing Department processes the procurement of all equipment leases and maintenance contracts and exemption orders for all renewals or extensions upon the request of user department. The Purchasing Agent supervises all negotiations with vendors. Purchasing maintains the document originals and sends the user department a copy. The Purchasing Department monitors maintenance contracts for expiration dates and treats their renewal as annual term contracts.

The Purchasing Agent may execute any contracts for equipment leases and maintenance contracts that are procured in compliance with the Purchasing Act and in which the cost does not exceed \$50,000. Commissioners' Court must approve all other contracts.

Procedures: The user department enters an electronic requisition identifying the budget line item account. The requisition identifies the purchase as either a lease or maintenance contract. The requisition should include the serial number, model number and physical location of equipment. The beginning and end dates of coverage should be specified.

If the user department is processing a renewal, the original contract number should also be identified in the requisition (either the County contract number or the State term contract number).

If the request is for a sole source lease or maintenance contract, the user department must follow up the requisition with a memo justifying why it is a sole source purchase.

Note: If the lease or maintenance contract is from an authorized State Catalog vendor, the user department must include the Vendor ID number, part number, class and item number, and contact person on the requisition.

Technical Department Approvals: Information Technology (IT) may be involved in the analysis of whether a maintenance contract or in-house repairs are more appropriate. Departments should coordinate with IT on these analyses and provide a statement from the appropriate department that the maintenance contract sought is appropriate.

Note: 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.

Part 18 – Receipt of Goods

Policy: Departments *must* notify the Purchasing Department if goods are not received by the due date or if damaged freight is delivered.

Verify Order: Department employees receiving shipments must pay particular attention to the delivery ticket, and 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 sign in his or her name (a full signature in ink), on all of the appropriate receiving documentation, particularly the County copy.

Timely receipt of paperwork is critical to the processing of payments to vendors in compliance with Texas Government Code, section 2251.021, commonly known as the "Prompt Payment Act." According to this section, payment for goods or services received is overdue on the 31st day after the later of:

- The date the County receives the goods under the contract;
- The date the performance of the service under the contract is complete; or
- The date the County receives an invoice for the goods or service.

The Purchasing Department will make necessary adjustments to the purchase order, after submission of invoice with purchase order attached by user department. Invoices are then forwarded to the Auditor for payment processing.

Damaged Freight: When a shipment arrives, the user department must inspect the condition of all cartons. If freight is undamaged, the department receiving the shipment should sign the

freight bill. If freight is visibly damaged, the receiving department must instruct the freight line driver to:

1. Note the damage on the freight bill; and
2. Sign the freight bill.

If there is concealed damage, save the shipping cartons so that the Purchasing Department or receiving department can notify the freight line and request an “inspection and report of concealed damage.” A receiving report noting the damage should be completed and attached to the freight bill and packing slip.

All boxes and packing materials should be kept in the event of visibly damaged and concealed damage freight shipments.

Damage freight must be reported to the freight line within 15 days after delivery. After 15 days the freight line is no longer liable for the damage.

All goods not received properly or not in compliance with the contract should be documented and reported to the Purchasing Department as soon as possible so that the vendor can be notified and instructed about corrective action. To comply with the Prompt Payment Act, the Purchasing Department notifies the vendor within 10 days of any damaged goods received to avoid interest being paid to the vendor.

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 Department.

Documentation: All original receiving documentation should be attached to invoice. User department must make copies in order to maintain their own records. The department should provide documentation to the Purchasing Department regarding any disputes in receipts of goods.

Part 19 – Contract Modifications

Policy: 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 or they can be substantial changes that affect the price and delivery.

There are basically two ways to change 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 exercise a right to modify the contract without the contractor’s consent.

Unilateral Changes: The Purchasing Agent may modify contract, 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. Method of shipping or packing;
3. 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 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, or
 - b. The contractor has consented to a decrease of 18% or more;
7. Time extensions allowed by the contract terms and conditions;
8. Contract name changes; and
9. Assignments of payment.

Note: The total contract price may not be increased unless the cost of the change can be paid from current and available funds.

Part 20 – Contract Administration

Policy: Contract administration and oversight includes four general processes:

- Planning
- Monitoring Contractor Performance
- Purchase Order Processing for Payment
- Change Management

This aspect of the procurement process is important. Written documentation of specific noncompliance must be available to enforce contractual terms. Documentation includes a description of specific dates, locations, examples, etc. of nonperformance and any contact or communication with the contractor about noncompliance.

Unilateral changes: The user department has primary responsibility for monitoring and documenting contractor performance and compliance. The user department must provide copies of all documentation of noncompliance to the Purchasing Department. Copies may be sent by email to the Purchasing Agent. The Purchasing Department maintains all documents about events during the term of the contract including contract performance and documentation related to clarification of expected performance. The user department does not need to provide copies of documentation about clarification of expected performance standards with which the contract complied after clarification. The user department should contact the Purchasing Department if there is any question about what should or should not be documented.

If the user department observes poor performance or noncompliance with the contract, Purchasing 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.

Contract Administration: The primary objectives of contract administration are to:

- Ensure the contract requirements are satisfactorily performed;
- Properly discharge the responsibilities of both parties;
- Verify contractor performance before payment;
- Identify any material breach of contract by assessing the difference between contract performance and material nonperformance; and
- Determine if corrective action is necessary and take that action, if required.

A written statement of work is the guide for contract administration. Therefore, planning for contract administration occurs before issuance of the solicitation. Effective contract administration minimizes or eliminates problems and potential claims and disputes.

Proper contract management ensures that the contract requirements are satisfied, that the good(s) and services are delivered in a timely manner, and that the financial interests of the County are protected.

The contractor must perform and meet the requirements of the contract. To do so, contractors sometimes need technical direction and approval from County personnel. County personnel

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.

Contract Management: The primary responsibilities of the contract manager are:

- Monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements;
- Managing any county property used in contract performance;
- Exercising remedies, as appropriate, where a contractor's performance is deficient;
- Resolving disputes in a timely manner;
- Documenting significant events; and
- Maintaining appropriate records.

The contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interest of the County are protected.

Monitoring Performance: Monitoring the performance of a contractor is a key function of proper contract administration. The purpose is to ensure 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.

Monitoring by Third Parties: 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 contract, the architectural firm that provided the construction plans may perform the task of ensuring accordance with the contract.

Dispute Resolution: Dispute resolution is covered by statute under Texas Government Code Chapter 2260. The goal of the 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:

- Identify the problem – what may appear to be a problem can sometimes be resolved by providing the contractor with information or clarification;
- Research facts – Purchasing should obtain all the information about the potential problem from all relevant sources, including the project manager and the contractor; and
- Evaluation – 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.

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 not procedure or less formal written procedure is essential. A contract termination is a failure by BOTH parties to a contract. *Termination is the last resort.*

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.

Purchasing provides the contractor a written notice specifying the extent of termination and the effective date providing as much notice as possible.

The Contractor is generally paid for allowable costs incurred up to the 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.

Termination for Default: 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.

Termination for default should be used as the *last resort* and *not as punishment*. The County should do everything within reason to assist the contractor in curing any default. Factors to consider before making a termination for default decision include:

- The provisions of the contract and applicable regulation;
- The specific contractual failure(s) and the explanation provided for the failures;
- The urgency of the need for the contracted supplies or services;
- The availability of the supplies or services from other sources and the time required to obtain them; and
- Availability of funds or resources to repurchase if the costs cannot be recovered from the delinquent contractor. Under a termination for default, the County may demand re-procurement costs from the defaulting contractor.

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

- An original copy of the current contract and all modifications;
- A copy of all specifications, drawings or manuals incorporated into the contract by reference;
- The solicitation document, the contractor's response, evaluation determination, and the notice of award document;
- A list of contractor submittal requirements;
- A list of County furnished property or services;
- A copy of the pre-award conference summary, if applicable;
- A copy of all general correspondence related to the contract;
- The originals of all contractor data or report submittals;
- A copy of all notices to proceed, to stop work, to correct deficiencies and change orders;
- The records or minutes of all meetings, both internal and external, including sign-in sheets and agendas;
- A copy of the original bidders list; and
- Any other information required by the standard contract file checklist.

Part 21 – Professional Development

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

- To provide the best service possible to all county departments in a fair and equitable manner;
- To ensure an atmosphere of equality to all vendors without regard to undue influence or political pressures; and
- To protect the interest of county taxpayers in all expenditures.

Key Objectives: Within the stated purposes, the Purchasing Department strives to meet the following key objectives:

- The action of the office must be legal, ethical, and defensible;
- The office contributes to the attainment of Randall County’s organizational goals;
- The office effectively communicates with all county employees and vendors;
- The professional staff obtains the skills and training necessary to perform their duties effectively and efficiently

Part 22 – Definitions

As used in this manual, the terms below are defined as follows:

Advertisement – A public notice put in a newspaper of general circulation containing information about a solicitation in compliance with legal requirements.

Alternate Delivery Method – A method of procuring construction services other than “traditional” competitive bidding. Methods may include design-build, construction manager (either at risk or as agent), and job order.

Amendment/Addendum – A document used to change the provisions of a Solicitation Addendum is the preferred term in the Construction Industry.

Annual Term Contract – A recurring contract for goods or services, usually in effect on a 12-month basis.

Auditor – Randall County Auditor and her/his designated representatives.

Best Value – The best available offer, in the county’s best interest. It is based on all factors including software cost, hardware costs, overall life cycle cost of equipment, the estimated cost in increased cost of employee training, employee productivity, installation and maintenance costs.

Bid Deposit – 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 U.S. Department of the Treasury listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

Bidder – A vendor that submits a bid including anyone acting on behalf of the vendor that submits a bid, such as agents, employees, and representatives.

Bidders List – An automated list of vendors who stated in writing an interest in submitting bids for particular categories of goods and services.

Change Order – A document used in construction contracts to change the contract by modifying the specifications, increasing or decreasing the cost adjusting the time for performance or changes the goods or services to be delivered.

Commissioners' Court – Randall County Commissioners' Court

Commodity Code – The accounting system classification of goods and services with a unique number assigned to each description.

Competitive Bidding – Process that allows available vendors to compete with each other to provide goods or services.

Competitive Proposal Process – Process that allows available vendors to compete with each other to provide goods and services that permits flexibility in product solicitation and negotiation in compliance with TEX. LOC. GOV'T CODE, section 262.030.

Component Purchases – A series of purchases of component parts of goods that are normally purchased as a whole.

Consultant – A person who provides or proposes to provide advice and counsel in a specialized area.

Contract – 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.

Contractor – A vendor who has been awarded a contract by Randall County.

County – Randall County

County Attorney – Randall County Attorney or her/his designated representatives.

County Clerk – Randall County Clerk or his/her designated representatives.

Cycle Time – 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, commodity codes, and other necessary information.

Department Head – Any Department Head and any person authorized to act on his or her behalf.

Design-Build Contract – A single contract with a vendor for the design and construction of a facility that includes an engineer or architect and builder qualified to engage in building construction in Texas.

Design Criteria Package – A set of documents that provides sufficient information to permit a vendor to prepare a response to County request for qualifications and any additional information requested, including criteria for selection.

Department – All county offices as well as district offices when the purchases are funded even partially with county funds.

Emergency Purchase – 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.

Employee – Any county elected official, appointed official, or employee and any district elected official, appointed official or employee involved in a county purchase when the purchase is funded even partially with county funds or anyone who acts on behalf of any of them.

Formal Competitive Bidding – The bidding process in compliance with the County Purchasing Act which requires approval by the Commissioners' Court.

Goods – Any personal property purchased by the County, including equipment, supplies, materials, and component or repair parts.

IT – Information Technology Department

Items Less than \$50,000 – Purchases of goods and services that are accounted for in the same commodity code in the County Chart of Accounts, and purchases of goods and services from a single vendor in a single purchase as defined in the County Purchasing Act involving an expenditure of less than \$50,000 if some or all of the costs is to be paid from county funds.

Lease – A contract for the use of personal property for a period of time in return for a specified compensation.

Lowest Responsible Bid – The offer from a bidder who submits the lowest and best bid 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 likely compliance with all material items of the contract.

Modification – A document used to change the provisions of a contract.

Negotiations – 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 a mutually-acceptable arrangement.

Occupant Department – 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.

Official – Any elected or appointed official and any person authorized to act on her/his behalf.

Payment Bond – A surety bond executed in connection with a contract that secures the payment requirement of the contractor.

Performance Bond – A surety bond that provides assurance of a bidder's performance of a certain contract.

Pre-Bid/Proposal Conference – 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.

Professional Services – Services directly related to profession 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.

Proprietary Information – Information provide in responses to solicitations to which a vendor claims ownership of exclusive rights and which is protected from disclosure under the Texas Public Information Act (TEX. GOV'T CODE ANN., chapter 551).

Public Works – Constructing, altering, or repairing a public building or carrying out or completing any public work.

Purchase Order – An order by the Purchasing Department for the purchase of goods and services written on the county's standard Purchase Order form and which, when accepted by the vendor without qualification within the specific 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.

Purchase Requisition – An automated request from a user department submitted to the Purchasing Department 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 department to order materials directly from a vendor.

Purchasing – The acquisition of goods and services including construction and professional services.

Purchasing Act – Chapter 262, subchapter C of the Texas Local Government Code, which governs the conduct of purchasing activity for counties.

Purchasing Agent – A person appointed by the Purchasing Board of County to make contracts on behalf of the County for: (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.

Purchasing Board – A board composed of the Judges of the District Courts in the county and the County Judge, who are responsible for appointing the Purchasing Agent and approving the office's budget.

Purchasing Laws – The laws that govern county purchasing including the following laws:

- Purchasing Act, (TEX. LOC. GOV'T CODE, ch. 262, subch. C)
- Public Property Finance Act, (TEX. LOC. GOV'T CODE, ch. 271, subch. B)
- State Contract, (TEX. LOC. GOV'T CODE, sec. 262.002, 271.0813)
- State Catalog, (TEX. GOV'T CODE, ch. 2157 in coordination with TEX. LOC. GOV'T CODE, sections 271.101 through 271.103)
- Services and Products of Severely Disabled, (TEX. HUM. RES. CODE, chapter 122)
- Interlocal Cooperation Agreement, (TEX. GOV'T CODE, ch. 791)
- Prompt Payment Act, (TEX. GOV'T CODE, ch. 2251)
- Bidders from other States and 5% Retainage, (TEX. GOV'T CODE, ch. 2252)
- Public Works Performance and Payment Bonds, (TEX. GOV'T CODE, ch. 2253)
- Professional Services Procurement Act, (TEX. GOV'T CODE, ch. 2254, subch. A)

- Wage Rate for Construction Projects (TEX. GOV'T CODE, ch. 2258)
- Sales tax exemption for governmental entities (TEX. TAX CODE, sec 151.309)
- Worker's Compensation Compliance (Workers Compensation Rule 110.110)
- Uniform Electronic Transaction Act (TEX. BUS. & COM. CODE, Chapter 43)

Purchasing Office – Randall County Purchasing Department and its staff

Real Property – Land or buildings, improvements to land or buildings, or infrastructure

Request for Bid (RFB) – Specifications and formal bidding documents requesting pricing for a specified good or service which has been advertised for a bid in a newspaper

Request for Information (RFI) – 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.

Request for Proposal (RFP) – 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 TEX. LOC. GOV'T CODE, sections 262.0295 and 262.030.

Request for Qualifications (RFQ) – A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act.

Responsive – A vendor who has complied with all material aspects of the solicitation document, including submission of all required documents.

Responsible – 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.

Sealed Bids – 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.

Separate Purchases – Acquisitions made in a series of different orders for goods and services that in normal purchasing practices would be purchased in a single order.

Sequential Purchases – Acquisitions made over a period of time that in normal purchasing practices would be made at one time.

Services – The furnishing of labor by a contractor that does not include the delivery of a tangible end product and includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal or professional services.

Sole Source Good or Service – A good or service that can be obtained from only one source that is purchased in compliance with TEX. LOC. GOV'T CODE, section 262.024.

Solicitation – A document, such as an invitation for bid, request for proposal, request for offers or request for qualifications, issued by the Purchasing Office that contains terms and conditions

for a contract and that solicits a response from vendors to provide goods or services needed by the County in accordance with those terms and conditions.

Solicitation Conference – A meeting chaired by Purchasing Department staff, designed to help potential vendors understand the requirements of a solicitation. Also known as a pre-bid or pre-proposal conference.

Specifications – A total description of a good or service to be purchased by the County, and the requirements the vendor must meet to be considered for the contract which may include requirements for testing, inspection, or preparing any good or service for delivery, or preparing or installing it for use.

User Department – The department from whose budget line item the contract is paid.

Vendor – A business entity or individual that seeks to have or has a contract to provide goods or services to the County.

COMMISSIONERS' COURT APPROVAL

Randall County Purchasing Policy & Procedures, Adopted May 06, 2014



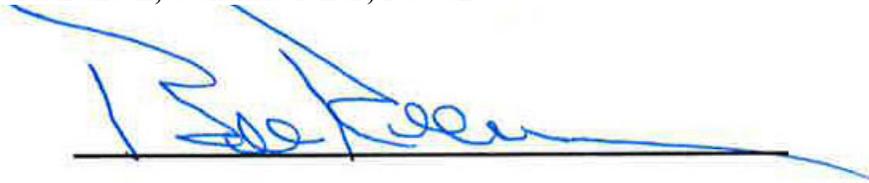
Ernie Houdashell, County Judge



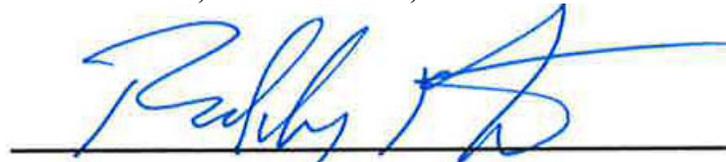
Christy Dyer, Commissioner, Pct. #1



Mark Benton, Commissioner, Pct. #2



Bob Robinson, Commissioner, Pct. #3



Buddy DeFord, Commissioner, Pct. #4



Date: 5-6-14

Attest:



Renee Calhoun, County Clerk