

CITY OF BOWIE



BOWIE
FINANCE DEPARTMENT

PURCHASING POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: MARCH 19, 2013

PREFACE

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Bowie. In addition to several administrative updates, which further establish standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program, Staff incorporated a major revision due to a change in statute. Specifically, the expenditure threshold increased from \$25,000 to \$50,000 in reference to competitive bidding and proposal requirements per Texas Senate Bill 1765.

This policy was formally adopted by the Council on March 19, 2013.

I. PURPOSE

The purpose of this policy is to establish standard practices and procedures to create a uniformity, economy, efficient and effective purchasing program for the City of Bowie.

II. POLICY

It is the policy of the City of Bowie to authorize purchases at time and place needed in the proper quantity and of the proper quality, all goods and services required for City operations. Goods and services shall be procured at the lowest possible cost consistent with prevailing economic conditions while establishing and maintaining a reputation for fairness and integrity, with the express intent to promote open and fair conduct in all aspects of the purchasing process.

III. GOVERNING AUTHORITY

The primary governing authority for the City of Bowie's Purchasing Policy shall be the City's Charter, in conjunction with Chapter 252 of the Local Government code: Purchasing and Contracting Authority of Municipalities. All procurement activity shall be governed in accordance with applicable federal, state, and local statutes, ordinances, and codes.

IV. CODE OF ETHICS

Every time items are purchased, city funds are committed. Therefore, purchasing is a responsibility that should not be taken lightly. By participating in the purchasing process, employees of the City of Bowie agree to:

- A. Make purchases in the conduct of the City's business only. To acquire or purchase goods and services for other than official use of the City is fraudulent use and may subject the employee to disciplinary action, up to and including dismissal as specified in the City's Personnel Policy and/or criminal prosecution.
- B. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- C. Demonstrate loyalty to the City of Bowie by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- D. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Bowie.

- E. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.
- F. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of governmental duties.
- G. Engage in no business with the City of Bowie, directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.
- H. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- I. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.
- J. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- K. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- L. Expose corruption and fraud wherever discovered.
- M. Uphold these principles, ever conscious that public office is public trust.

V. FUND AVAILABILITY & PAYMENT AUTHORIZATION

- A. Verification of fund availability is the responsibility of the User Department.
- B. Finance Department shall verify available funds through the City's financial reporting system during requisition entry. If funds are not available at the time, no purchase will be made until funds are made available with approval from City Manager.
- C. At a minimum, payment approval is required from Department Heads to pay for all products and/or services.
- D. As a tax-exempt government agency, the City of Bowie does not pay sales tax on applicable items. A sales tax identification number can be provided upon request by the vendor from the Finance Department. Employees are responsible for ensuring that the vendor does not include sales tax in the transaction, unless an item is subject to sales tax. If tax is included in error, the employee may be responsible for reimbursing the tax to the City if it is not recovered from the

vendor. Contact Accounts Payable for questions in regards to which purchases are subject to tax.

- E. A purchase order must be generated for every purchase. See appendix A for purchase order requirements.
- F. Approved invoices are forwarded directly to the Finance Department with the appropriate supporting documentation and signatures. Lost or misplaced receipts and/or invoices will not be paid by the City. Recurring instances of lost or misplaced receipts may result in the revocation of an employee's purchasing privileges.
- G. Payments for goods and services must be paid no later than 30 days after the later of:
 - 1) Receipt of goods/services OR receipt of the invoice for the goods/services.
 - 2) Goods/services will be considered received when they have been accepted as usable by the receiving department.

VI. LEGAL REQUIREMENTS

- A. Texas Local Government Code, Subchapter B, Section 252.021 defines the requirements for competitive bids. Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval. Intentionally splitting purchases to circumvent the competitive bid process (i.e. two or more purchases made to keep the amount under \$50,000) may result in disciplinary action up to and including termination.
- B. Likewise, intentionally splitting purchases to circumvent the three (3) quote requirement process (i.e. two or more purchases made to keep the amount under \$3,001) may result in disciplinary action up to and including termination.
- C. Purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements, as well the City of Bowie's requirement for any quote process. Cooperative purchasing occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.
- D. Any exemption per Section 252.022, General Exemption of Texas Local Government Code will need the approval from the City Manager. The

Department Head will need to include a written explanation, as well as copies of all the quotes for the City Manager's review. Upon approval from the City Manager, attach a written explanation and all documentation and send to the Finance Department for payment.

- E. Violations of state law are punishable under Local Government Code, Section 252.062.

VII. QUOTES

Except as otherwise exempted by applicable state law, requisitions for item(s) whose aggregate total cost is more than \$50,000 must be processed as competitive solicitations (e.g. sealed bids, request for proposals, and request for offers).

- A. With the approval from the City Manager to begin the competitive process, the user department shall prepare a bid package with specifications and any other pertinent information. Along with the specifications and other information, the department may submit suggested vendors for the item(s) requested.
- B. A notice will be published in Bowie's official newspaper to indicate the City's intent to accept bids in accordance with state law. Bids must be advertised for two (2) consecutive weeks with the first publication at least 14 days prior to the bid opening date.
- C. Local Government Code Section 252.0215 Competitive Bidding in Relation to Historically Underutilized Business, states that a municipality, in making an expenditure of more than \$3,000.00 but less than \$50,000.00 shall contact at least two historically underutilized businesses (HUB's) on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.
- D. Vendor pre-bid conferences may be conducted if, in the opinion of the requesting department, further explanation or coordination is needed due to the nature of the bid.
- E. The City Secretary or designee shall publicly open the bids received and read them aloud at a designated time and as indicated in the bid packet. The City Secretary or designee will indicate to those present when the council will most likely address this item and will make available to those present the names of the vendors and the amount of their respective bids. In the case of an RFP, only

the submitter's names will be announced. A tabulation will then be created. A representative from the user department should be present during bid openings.

VIII. AWARD OF CONTRACT

The City of Bowie shall award contracts based on criteria deemed in the best interest of the City. The Texas Local Government Code, Section 252.043, states, in part:

- A. If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality. Best value may be determined by considering the factors in Local Government Code, Section 252.043(b).
- B. Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

IX. RECIPROCITY

The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states, unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principle place of business is located.

X. DISCLOSURE OF INFORMATION

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and applicable City policies implementing this chapter. The Texas Local Government Code Chapter 252.049(b) states, in part:

- A. If provided in a Request For Proposal (RFP), proposals shall be opened in a manner that avoids disclosure of the contents to competing offers and keeps the proposals secret during negotiations. All proposals are open for public

inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

XI. PROFESSIONAL SERVICES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Personal and professional services are exempted from the competitive bidding process and are procured through the use of the Request For Qualification (RFQ) documents. The Administration Department is available to consult with departments regarding the preparation of information; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

A. Texas Government Code, Chapter 2254, subchapter A, Professional Services, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:

- 1) Of demonstrated competence and qualifications to perform the services;
- 2) For a fair and reasonable price;
- 3) Fees are allowed;
- 4) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
- 5) May not exceed any maximum provided by law.

B. Professional Services, for the purposes of Government Code Chapter 2254, are defined as those "services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, 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 a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse."

XII. SOLE SOURCE PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code. When a department has identified a specific item with unique

features or characteristics essential and necessary to the requesting department and no alternate products are available, a written justification must be provided to the Administration Department upon purchase. The legislature exempted certain items from sealed bidding in the Vernon's Texas Codes Annotated – Local Government Code Section 252.022 (a) 7, in part:

- A. items that ^{are} is available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- B. films, manuscripts, or books;
- C. gas, water and other utility services;
- D. capital replacement parts or components for equipment;
- E. books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and
- F. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

XIII. EMERGENCY PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Valid emergencies are those that occur as a result of the breakdown of equipment, which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Finance Department to conduct the procurement of supplies and services. The Legislature exempted certain items from the competitive sealed process in the Texas Local Government Code Section 252.022(a), including, but not limited to:

- A. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.
- B. A procurement necessary to preserve or protect the public health or safety of the municipality's residents.

XIV. INELIGIBLE VENDORS

- A. An ineligible vendor shall not be allowed to conduct business until:
 - 1) Financial arrears are paid in full
 - 2) Inappropriate practices are corrected

- 3) Vendors have satisfied any and all penalties imposed by the City
- 4) If applicable, a listing of ineligible vendors will be developed and distributed annually by the Finance Department to all other departments, unless a greater frequency is determined by the Director of Finance
- 5) At the recommendation of a user department, the Finance Department may declare a vendor ineligible if it has failed to comply with the terms of a previous award, specifications of a bid or conducted inappropriate business practices
- 6) The penalty imposed may be for a period of up to twelve (12) months during which time bids submitted by such vendor shall not be considered
- 7) A penalty greater than twelve (12) months due to the severity of the infraction requires the approval of the City Manager or designee

B. The City of Bowie reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.

XV. AUDIT OF DEPARTMENTAL RECORDS

The Finance Department may audit user departments purchasing files to ensure compliance with the procedures described herein.

XVI. RECOMMENDATIONS TO CITY COUNCIL

The City Manager, Finance Director and/or User Department make final recommendations for all solicitations subject to this policy to the Mayor and City Council regarding the awarding of contracts, as required by applicable federal, state, and local ordinances, statutes and code and the Bowie City Charter.

XVII. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

APPENDIX A

CITY OF BOWIE, TEXAS
PURCHASING MATRIX

~~\$3,000~~

PURCHASE AMOUNT	\$0 - \$5,000	\$5,001 - \$49,999.99	\$50,000 & Above
SIGNATURE REQUIRED	*Department Head	*Department Head *City Manager	*City Manager *Mayor on unbudgeted items
PURCHASE ORDER	*Not Required *Only if Vendor Needs	*Not Required *Only if Vendor Needs	*Not Required *Only if Vendor Needs
LEGAL REQUIREMENT	*N/A	*Three (3) Quotes *Two (2) of Three (3) *Quotes Must be HUB Vendors in Montague County *If HUB(s) not listed, City is Exempt	*Competitive Bid OR *Competitive Proposal
EXEMPT FROM LEGAL REQUIREMENT	*N/A	*Cooperative Programs Purchases *Sole Source Purchases *Emergency Purchases *Professional Service Purchase	*Cooperative Programs Purchases *Sole Source Purchases *Emergency Purchases *Professional Service Purchase - MUST USE REQUEST FOR QUALIFICATIONS PROCESS. REFER TO SECTION XI
MINIMUM PAYMENT DOCUMENT(S)	*Pay Request *Invoice (Not Quote) *Applicable Receipts *Backup Documents if applicable	*Pay Request *Invoice (Not Quote) *Applicable Receipts *Backup Documents if applicable	*Pay Request *Invoice (Not Quote) *Applicable Receipts *Backup Documents if applicable
PAYMENT TERMS	*TX Prompt Payment Act (No later than 30 Days)	*TX Prompt Payment Act (No later than 30 Days)	*TX Prompt Payment Act (No later than 30 Days)