

*El Paso
County*

Purchasing 101

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101 Basics Today's Topics



Topic 1

The Role of County Procurement

Topic 2

Purchasing Methods & Options

Topic 3

Overview & Reminders

Topic 4

Partnering with Purchasing

Understand the Role of County Procurement:

What is Public Procurement?

The process by which public agencies purchase goods or services from private industry.

- Accounts for 10%-20% of Gross Domestic Product
- Forms a substantial part of the global economy
- Governments spend via taxpayer dollars

To prevent fraud, waste, and abuse, the federal, state, and local laws strictly regulate public procurement practices.

NOTE: Most agencies can only do what is allowed by law.

Understand the Role of County Procurement:

Crucial Components to Public Procurement

INTEGRITY and **CREDIBILITY**

✓ **Integrity:**

the quality of being honest; having moral principles

✓ **Credibility:**

the quality of being trusted and believable

Understand the Role of County Procurement:

Types of Public Procurement Law

FEDERAL: Based in constitution and congressional authority; Principal set of rules is the FAR, which serves as the basis for:

STATE: Under the structure of federal common law, each state sets its own purchasing practices through legislature. The State of Texas Procurement Manual is the principal set of rules for state agencies and each state legislature sets its own purchasing practices for:

LOCAL: (county, city, schools) The Texas Local Government Code is the principal set of rules for local agencies.

Understand the Role of County Procurement:

Welcome to County Purchasing

Texas Local Government Code (TLGC) chapter 262 provides the primary authorization, requirements, and prohibitions related county purchasing in the State of Texas.

- Additional statutes in state law can apply
- Additional statutes in federal law can apply
- Typically related to:
 - Type of purchase
 - Funding source
 - Special situations

The County Purchasing Agent

1. Is appointed by a Purchasing Board
2. Serves as a resource of the Commissioners Court
3. Responsible for ensuring the County is doing business in a fair manner as detailed in local code and other applicable laws

Formal & Informal Solicitations * Inventory * Mailroom * Deliveries * Land Acquisition

Understand the Role of County Procurement:

The County Procurement Cycle

The County Purchasing Department has many internal processes to ensure statutory requirements for procurement are being met.

However, **the total procurement cycle is actually a partnership** between the Purchasing Department and:

- ❖ the department with the need;
- ❖ the Budget Office;
- ❖ the County Auditors Office; and
- ❖ the Commissioners Court

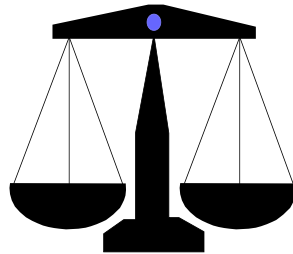


Purchasing Methods & Options:

Basic Methods of Procurement

The Texas Supreme Court states:

“Competitive bidding 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 item and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications. Its purpose is to stimulate competition, prevent favoritism, & secure the best work and materials at the lowest practicable price for the best interest of the taxpayers and property owners.”



Basic Methods of Procurement (cont'd)

For County Procurement, there are three basic methods of obtaining the most competitive pricing:

- ✓ **Micro Purchases**
- ✓ **Informal Written Quotes**
- ✓ **Formal Solicitation**

Purchasing Methods & Options:

Basic Methods of Procurement (cont'd)

Local Government Code requires procedures at certain dollar thresholds.

NOTE: anticipated spend determines procurement method

<\$1,000 Quotes and price checking encouraged, but not required

**Cooperative purchasing is an option*

\$1,000.01 - \$50,000 Written quotations are required; minimum of 3; expenditures at this level are required to be made by the Purchasing Agent.

**Cooperative purchasing is an option*

>\$50,000 Formal Solicitation is required (SB, SB-BV, RFP)

**Cooperative purchasing is an option*

More about Formal Solicitations

Formal Solicitation = Advertisement

- Advertise twice in a local newspaper of general circulation a minimum of 14 days prior to the stated bid opening date.
- Contain explicit specifications describing the goods or services to be obtained through the process.
- State the following:
 - How the bid is being awarded
 - Bonding requirements
 - Method of payment

Purchasing Methods & Options:

More About Formal Solicitations

- ✓ The Owner Department evaluates sealed bid and RFP responses.
- ✓ By policy, any ties in a sealed bid are broken by a casting of lots.
- ✓ A contract based on a sealed bid may not be awarded to a respondent who is not the lowest responsive and responsible bidder unless each low bidder is notified and given an opportunity to appear before Commissioner's Court to dispute any claims.
- ✓ By law, only Commissioners Court can reject or award formal solicitations

Bid -vs- Proposal

Sealed Bid: also, Invitation for Bid (IFB), Request for Bid (RFB), Invitation to Bid (ITB) and Competitive Sealed Bid (CSB). A procurement method which the award is made to the *lowest and best bidder*, or “*low bid*”.

Used when the end product, service, or alternatives is known. This is the **gold-standard** for competitive procurement and must be used whenever feasible.

- ✓ Simplest process; seen as the **most transparent, competitive outcome** for both the agency and vendors.
- ✓ **Price is firm** and cannot be modified or negotiated.
- ✓ Vendor with lowest unit price must also be **responsive** (meets all requirements) and **responsible** (capable of sustaining the contract and meeting obligations).

Bid -vs- Proposal ? (cont'd)

Request for Proposal: also, RFP or CSP.

An alternate process to the sealed bid that can be used by law in the cases of high technology (service solutions related to IT) and insurance. *(TLGC 262.030); or for other projects with special permission from Commissioners Court.*

Use when an agency is seeking a solution to a problem and is looking to the contractor a solution.

This method must be strictly controlled to maintain fairness.

Bid -vs- Proposal (cont'd)

Process Comparison:

SEALED BID

1. Objective / Quantitative
2. Used when need, quantity, and result is known and comparable.
3. Name and Prices are read aloud.
4. Price is firm. No negotiation.
5. Awarded based on lowest price and responsiveness to specs.
6. Simple tabulated evaluation.

PROPOSAL

1. Subjective / Qualitative
2. Used when the solution needed is unknown.
3. Only Names are read aloud
4. Price negotiation can occur with one or all respondents.
5. Award is based on scored evaluation and *best value*.
6. More detailed evaluation with higher level of monitoring.

Bid or Proposal ?

So...

How do you know whether you need a sealed bid or a sealed proposal?

Quite literally, it's all in the specifications.

A well-written specification can do more to assure success of the purchasing effort than any other element of the contracting process.

Experts recognize that writing a good specification is probably the most difficult aspect of the contracting process.

GIGO

Garbage In / Garbage Out

Specifications

The specification should contain a clear and precise description of the item or service needed. It should begin with the Scope of Work.

The SOW is a written description of the County's needs and desired outcomes for the procurement; it

1. Becomes the basis for any resulting solicitation.
2. Is developed at the beginning process and must provide sufficient information
 - For the **supplier to determine whether it is qualified** to offer a solution;
 - For the **supplier to decide whether to respond** to the solicitation;
 - To help **ensure the product or service meets the stated outcome**; and
 - To **establish parameters for the resulting contract**.

Specifications

A specification **SHOULD ALWAYS:**

- Give a complete and accurate understanding of what is required
- Give minimum performance/objectives to satisfy the agency needs
- Not be restrictive (or discourage competition)
- Not require clarification to suppliers
- Use a standard format

Specifications

A specification **SHOULD NEVER**:

- Be written to a specific vendor's product or service
- Provide instructions on response preparation
- Contain any terms or conditions
- Contain any evaluation methods
- Contain any other boilerplate items

Specifications

SEALED BID specifications should be very precise because what is needed is already known.

REQUEST FOR PROPOSAL specifications can be less precise because the available options (or what is needed) is unknown and the responding firms are allowed to offer creative options or solutions.

Other Types of Formal Process

There are also other methods that are used or may be required in specific circumstances, one is:

- ✓ **Request for Qualifications (RFQ)**
 - Version of the RFP process; used for professional services
 - Can only choose and negotiate pricing with the “most qualified”
 - Price is prohibited from being the deciding factor
 - State law requires a very specific RFQ method for engineers, architects, and land surveyors (Statute 2254)

Other Types of Formal Process (cont'd)

Another method, often placed in the formal solicitation category (although inherently different), is:

- ✓ **Request for Information (RFI)**
 - A method of obtaining information about an industry from the vendor community or the public;
 - Results are often used to create specifications for a subsequent formal solicitation;
 - Formally advertised and evaluated;
 - **No type of award can occur from this process.**

Other Types of Formal Process (cont'd)

When competition is not feasible or can be verified not to exist, the statute allows for certain exemptions:

- ✓ **Emergency Purchases**
 - Must be justified or declared
 - Court approvals may still be required
- ✓ **Single Source / Sole Source**
 - Single = only source authorized; Sole = only known source
 - Requires a strict and heavy burden of proof
 - Formalized process encoded in policy
 - **It's either officially verified or bidding must occur**

Other Types of Formal Process (cont'd)

The state has allowed public agencies to combine resources and use one another's contracts:

✓ **Cooperative Purchasing**

- Aggregate Purchasing / Economies of Scale
- Balances the resource crunch all agencies experience
 - Regional/State/National Co-Ops
 - Piggy-Backing
 - Joint Contracting
- Not always best price
- Not always the best solution to a County need.
- Use must be assessed in entirety vs. needs of the County

The Rules Do Matter

TLGC§ 262.034. Criminal Penalties

(a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

- **Component purchases:** purchasing a series of component parts of goods that normally would be purchased as a whole.
- **Separate purchases:** purchasing goods and services in a series of separate purchases, that in normal purchasing practices, would have been purchased in one purchase.
- **Sequential purchases:** purchases made over a period of time that in normal purchasing practices would be made as one purchase.



The Rules Do Matter (cont'd)

TLGC§ 262.034. Criminal Penalties (cont'd)

(b) *Repealed*

(c) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

- Carries fines and jail time
- Each act counts as a separate offense.
- Immediate removal from employment.
- No public candidacy (or employment by agency) allowed for 4 years.
- May be held personally responsible for the payment of the purchase.



Reminders & Recap:

Let's Review!

Today's class was designed to be an overview of the procurement requirements, governing legislation, methods, and process related to county purchasing. Here's a recap:

County procurement is primarily governed by Texas Local Government Code Chapters 262 and 271.

- The County can only do what is authorized by statute.
- Procurement is a mandated process / Invested in the Purchasing Agent.
- The entire procurement cycle is a checks & balances partnership.
- Different types of processes are mandated to be used at certain dollar thresholds.
 - Informal Bid (Written Quote) is required between \$1,000.01 and \$50,000.
 - Formal solicitation is required at amounts greater than \$50,000

Reminders & Recap:

Let's Review!

(Continued)

- There are multiple methods of solicitation at the formal level
 - Sealed Bid (Simplest; Gold Standard and preferred)
 - Request for Proposal (Evaluative; Subjective and to be used infrequently)
- Quality of resulting contract depends on attention to detail in the specification stage.
 - GIGO
 - Specs should be explicit, open, fair, and have a strong SOW
- Other types of process exist
 - RFQ for Professional Services
 - RFI for fact-finding
- The rules do matter.

Partnering with Purchasing:

Our Promise to You

Your Purchasing team is always working to improve both quality and consistency of service— as well as streamlining processes. Since late 2017, we have succeeded in:

- ❖ Decreasing processing time on Informal Bids (<\$50K)
- ❖ Decreasing processing time on Formal solicitations (>\$50K)
- ❖ Streamlining large project tracking to avoid slippage
- ❖ Creating step-by-step flowcharts of all major processes
- ❖ Creating the Purchasing Portal as a one-stop knowledge shop
- ❖ Visual tracking of project status on Purchasing Portal

Partnering with Purchasing:

How You Can Help Us Succeed

We want to be excellent service partners, but we also want you to know how to easily navigate the world of public procurement. To that end, you can help by:

- ❖ Preplanning projects to avoid last-minute emergencies
- ❖ Letting us know as soon as a need is identified
- ❖ Letting us know when a project is slipping or items unreceived
- ❖ Attending training offered by the Purchasing Department
- ❖ Responding to inquiries, receiving items in Munis for payment
- ❖ Providing regular feedback on areas of improvement/deficiencies

Discussion & Questions

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