

City of Anna, Texas
Purchasing and Procedures Manual

TABLE OF CONTENTS

Chapter 1 INTRODUCTION.....	3
Section 1. Background.....	4
Section 2. Mission and Goals of Public Purchasing.....	4
Section 3. Purchasing Policy Statement.....	5
Section 4. Other Resources.....	6
Chapter 2 PURCHASING ETHICS.....	7
Section 1. Ethics Policy Statement.....	8
Section 2. Accountability of City Employees.....	8
Section 3. Ethical Standards.....	9
Chapter 3 PURCHASING PROCEDURES.....	10
Section 1. Conflict of Interest.....	11
Section 2. Department Responsibilities.....	11
Section 3. Purchasing Parameters.....	11
A. Petty Cash (0 to \$50).....	12
B. Purchases less than \$3,000 (0 to \$2,999.99).....	12
C. Purchases \$3,000 but less than \$50,000.....	12
D. Purchases \$50,000 and Over.....	13
Section 4. Tax Exempt Certificate.....	13
Section 5. Purchasing Procedure Violations.....	13
Section 6. Exceptions to Competitive Bidding.....	13
A. Emergency Purchases.....	14
B. Sole Source Purchases.....	14
C. Other Exceptions.....	15
Section 7. Professional Services.....	16
Section 8. Lease Purchases.....	16
Section 9. Purchasing Card Program (P-Card).....	16
Section 10. Purchase Order Processing.....	16
Section 11. Receiving and Inspection.....	17
Section 12. Prompt Payment Act.....	17
Chapter 4 COMPETITIVE BID PROCESS.....	18
Section 1. Request for Quote (Purchases \$3,000 and less than \$50,000).....	19
Section 2. Bid/Request for Proposal Process (Purchases \$50,000 and Over).....	19
A. Procedure Requirements for Bids/Request for Proposals (RFP).....	19
B. Establishing Bid Specifications.....	20
C. Awarding the Bid.....	21
D. Contested Bids.....	21
E. Awarding the Request for Proposal (RFP).....	22
F. Verification of Insurance.....	23
G. Bonding Requirements.....	24
H. Change Orders to Contracts.....	24
Section 3. State Contracts and Cooperatives.....	24
Chapter 5 DISPOSAL OF SURPLUS PROPERTY.....	25
Chapter 6 DEFINITIONS.....	27

CHAPTER 1 INTRODUCTION



CHAPTER 1 INTRODUCTION

Section 1. Background

The Purchasing Policy and Procedure Manual provides the City departments information to assist in making decisions regarding the purchase of goods and services necessary to perform the functions of their offices and/or departments effectively.

City staff must ensure that purchasing responsibilities are accomplished in compliance with Texas Local Government Code, including Chapters 252 and 271, Purchasing and Contracting Authority of Municipalities, other relevant federal, state, and local statutes, and City of Anna policies. This is accomplished primarily through competitive bids/proposals with the City's best interests always paramount. The City of Anna embodies best practices, promotes transparency, fairness, and competitiveness in state and local government.

This policy is provided to protect employees and the use of public funds. Employees will be held accountable for the proper use and administration of the purchasing process. This policy/manual has been prepared for the use of City personnel and other interested parties to serve as policy for all procurement related activities. It is the responsibility of each employee involved in the procurement process to understand the policies, the meaning, and the intent. Individuals making purchases in a manner that does not adhere to the City's Purchasing Policy or enters into a private transaction with the vendor, assumes responsibility for payment and may be subject to disciplinary action.

Section 2. Mission and Goals of Public Purchasing

The mission of the Purchasing Policy of the City of Anna is to:

- Foster an understanding and appreciation of sound purchasing practices throughout all departments of the City;
- Acquaint all persons (internally and externally) in respect to the City's purchasing policies and procedures;
- Ensure compliance with local, state, and federal laws applicable to city purchasing;
- Attempt to gain the most value in every purchase;
- Eliminate high cost, convenience buying;
- Provide an ongoing supply of quality goods and services to all City offices; and
- Protect the interests of City of Anna neighbors.

The goals of public purchasing are to:

- Purchase the proper goods and services;

- Obtain the best possible price for goods or services, without sacrificing the quality needed;
- Ensure a continuing supply of goods and services are available where and when needed;
- Ensure responsible bidders are given a fair opportunity to compete for the City's business;
- Ensure the proper disposition of surplus property through internet auctions or sealed bids;
- Ensure public funds are safeguarded;
- Ensure public funds are not used to enrich elected officials or City employees or to confer favors; and
- Provide all vendors, including Historically Underutilized Businesses (HUBS), equal access to the City's competitive processes for the acquisition of goods and services.

Section 3. Purchasing Policy Statement

Purchasing is a function of all departments. Department Directors, Assistant Directors, and Managers are responsible for ensuring that departmental purchases are in compliance with the approved budget and the City's Purchasing Policy. Purchasing procedures are guided by several established policies. These consist of the following:

- All purchasing shall adhere to sound purchasing policies to ensure that Anna neighbors receive the best value for city purchases.
- Regardless of the expenditure, it is the policy of the City of Anna to garner competition that produces the highest quality goods and services at the lowest possible price whether the item or service is subject to quotes or bids.
- It is the policy of the City to allow the City Council to make final award on any expenditure of \$50,000 or greater in accordance with Texas Statutes.
- All purchasing shall be in accordance with the laws of the State of Texas including Chapters 252 and 271 of the Texas Local Government code.
<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.252.htm>
<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.271.htm>
- Purchasing activities shall be managed with proper controls.
- When required or preferred, a competitive bidding process will be utilized to obtain purchases at the lowest possible cost and to provide for an open and fair process for all interested vendors.
- No City Council member or employee shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested, directly or indirectly, in the sale to the City of any land, or rights in any land, materials, supplies or service except on behalf of the City as a Council member or employee. Any knowing violation of this section shall constitute malfeasance in office, and any member or employee found guilty thereof shall be subject to removal from such office or position. Any violation of this section shall render the contract voidable at the discretion of the City Council.

Section 4. Other Resources

An additional resource is provided through the link below from the Texas State Comptroller's Office. The State of Texas Procurement and Contract Management Guide was written to provide a holistic approach to government procurement. (Reference: Comptroller.Texas.Gov)

<https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>

CHAPTER 2 PURCHASING ETHICS (For City Representatives & Vendors)



CHAPTER 2 PURCHASING ETHICS (For City Representatives & Vendors)

Section 1. Ethics Policy Statement

The Ethics Policy is cumulative of any provisions governing ethics or conflicts of interest under state law and the City of Anna's Home-Rule Charter all as amended. In the event of any conflict between any such provisions, the most restrictive provision shall govern. This section will promote the objectives of protecting government integrity and facilitating the recruitment and retention of qualified ethical personnel needed by the City of Anna.

The City also requires ethical conduct from those who do business with the City. City representatives and vendors/entities are required to adhere to all federal, state, and municipal laws and ordinances.

Section 2. Accountability of City Employees

The City wants to promote and protect its governmental integrity. As a public entity, the City is expected to be able to demonstrate to the neighbors that it has spent their tax dollars wisely. All participants in the City are responsible for ensuring that money is spent in accordance with the terms and conditions of all the policies of the City of Anna. Public employees must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible contractors. Public officials and employees must take precautions to avoid even the appearance of impropriety, self-dealing, favoritism, or undue influence.

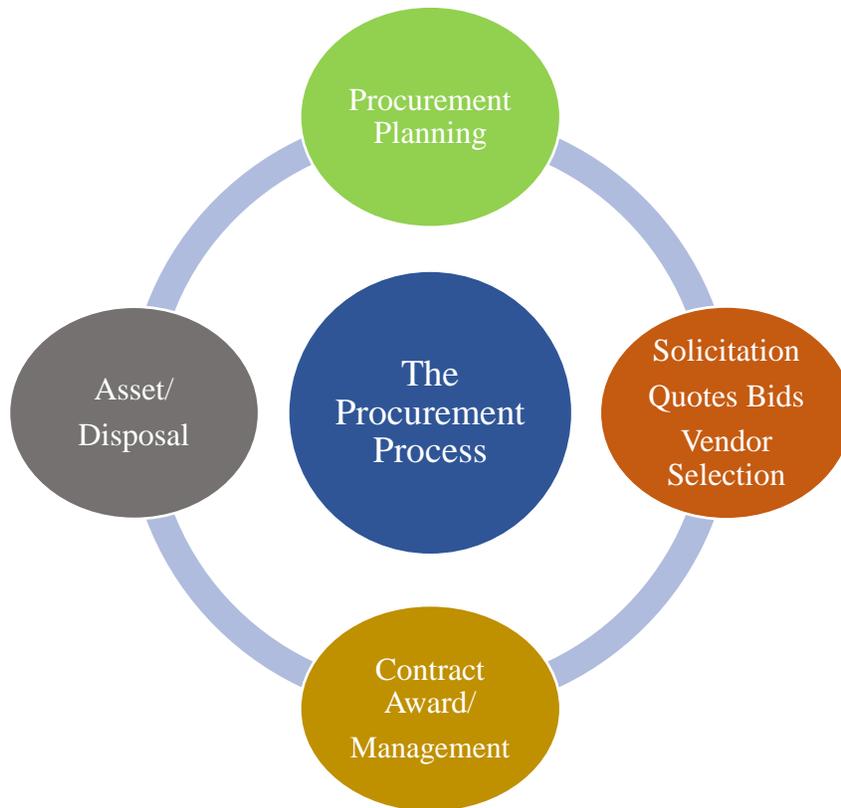
It is essential for employees to take ownership of, and be responsible for, their actions to preserve the public trust and protect the public interest. All City staff engaged in procurement for the City shall comply with the ethical standards set forth in the following criteria:

- Plan purchases to minimize the use of emergency or expedited purchases;
- Ensure that purchasing policies and procedures are understood prior to ordering;
- Apply sound business judgement;
- Purchase the proper goods or services to suit the City's needs;
- Get the best possible price for the goods or services using City policies;
- Purchases shall have appropriate and adequate supporting documentation including a clear explanation of the reason for the purchase
- Guard against misappropriation of City funds;
- Facilitate competition from responsible bidders;
- Safeguard public funds and receive the best value for the public dollar;
- Never use public spending to enrich elected officials or City employees; and
- Never make purchases for personal use in the City's name.

Section 3. Ethical Standards

1. It shall be a breach of ethics to attempt to realize personal gain through public employment with the City of Anna by any conduct inconsistent with the proper discharge of the employee's duties.
2. It shall be a breach of ethics to attempt to influence any public employee of the City of Anna to breach the standards of ethical conduct set forth in this code.
3. It shall be a breach of ethics for any employee of the City of Anna to participate directly or indirectly in a procurement when the employee knows that:
 - a. The employee or any member of the employee's immediate family has a financial interest in the procurement;
 - b. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement;
 - c. Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
4. It shall be a breach of ethics for any employee of the City of Anna to accept, receive, or arrange for any gratuity or any offer of employment in connection with any decision, approval, denial, recommendation, preparation of any part of a program requirement or purchase request, influencing the content or any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement of a contract or subcontract, or to any solicitation or proposal thereof, pending before this government.
5. It shall be a breach of ethics for any employee of the City of Anna to approve or allow any purchase, transaction or contract for expenditure regardless of the amount unless said employee has been expressly authorized to do so in advance by the City Council during a duly noticed public meeting if—with respect to such purchase, transaction or contract for expenditure—any City Official (as defined in the Anna Code of Ethics) is: (1) required to file a Conflicts Disclosure Statement under Chapter 176 of the Texas Local Gov't Code or the Anna Code of Ethics, as amended; or (2) is a Vendor as that term is described under Section 176.002 of the Texas Local Gov't Code, which includes acting as an agent of a Vendor.
6. It shall be a breach of ethics for any employee or former employee of the City of Anna knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.
7. No City representative may purchase City property for their own personal use unless it is purchased through the City's public auction.
8. No City representative, City Council, Boards or Commissions, or employees, may use the purchasing power of the City to make private purchases or to avoid the payment of sales tax.

CHAPTER 3 PURCHASING PROCEDURES



CHAPTER 3 PURCHASING PROCEDURES

Section 1. Conflict of Interest

All purchases, transactions and contracts for expenditures regardless of amount must be expressly approved in advance by the City Council during a duly noticed public meeting if, with respect to such purchase, transaction or contract for expenditure any City Official (as defined in the Anna Code of Ethics) is: (1) required to file a Conflicts Disclosure Statement under Chapter 176 of the Texas Local Gov't Code or the Anna Code of Ethics, as amended; or (2) is a Vendor as that term is described under Section 176.002 of the Texas Local Gov't Code, which includes acting as an agent of a Vendor. Otherwise, the following purchasing procedure is outlined in accordance with the noted dollar thresholds of expenditures.

Section 2. Department Responsibilities

It is the responsibility of the Department Director and/or Authorized Designee to ensure the following:

- The appropriate budget has been identified and is available;
- The appropriate method of purchase has been identified;
- City management and/or City Council approves of the purchase;
- City policy is being followed;
- State and Federal laws are being enforced;
- Documentation for the purchase is attached to the PO, such as quotes, emergency purchase order with the City Managers signature, invoice, and/or documentation reflecting the vendor is a sole source vendor;
- Invoices are submitted in a timely manner to adhere to the Prompt Payment Act as described Section 12; and
- When applicable, a Certificate of Interested Parties (Form 1295) is provided to the Finance Department. Chapter 2252.908 of the Texas Government Code requires a business entity entering into certain contracts with a governmental entity to file a Certificate of Interested Parties, Form 1295. Generally, all contracts requiring a vote of the City Council are included. Contractors are required to register via the Texas Ethics Commission Website where a Form 1295 is generated. The City must acknowledge receipt of the form via the same portal no later than the 30th day after the contract date.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Section 3. Purchasing Parameters

At no time, shall purchases be broken down into smaller quantities or specialized activities so as to avoid the requirements stated below. This practice is against State law and City policy.

Approval Authority

The following approval levels shall be utilized in all procurement related matters.

1. All procurement card (P-Card) transactions shall be approved by the respective Department Director or Assistant Director.
2. All other Procurement Related Expenses below:

Amount	Approval Requirements				
0 - \$4,999	Designated Supervisors				
\$5,000 - \$9,999		Assistant Director or	Department Director		
\$10,000 - \$49,999			Department Director and	City Manager	
\$50,000+			Department Director and	City Manager and	Council Approval

***The purchasing thresholds below pertain to the **total purchase** from a single vendor, not per item. This also includes purchases by multiple departments. ***

A. Petty Cash (0 to \$50.00)

Petty Cash is deemed appropriate when it allows for more efficient procurement of minor goods and services. Petty Cash may only be used for non-routine minor purchases of goods or services up to \$50.00. An employee requesting the Petty Cash must have approval from their Department Director, Assistant Director, or Designated Supervisor. Documentation for the use of Petty Cash is required at time of reimbursement and must include an invoice or itemized receipt for the purchase. The employee requesting reimbursement will be required to sign for receipt of the cash. Employees issued P-cards should not utilize petty cash for purchases.

B. Purchases less than \$3,000 (0 to \$2,999.99)

A one-time purchase by a single department or from multiple departments under the same Department Director for supplies do not require quotes to be obtained. Quotes are recommended when possible even if they are verbal. Purchases may be made with the P-Card depending on the employee's card limit.

C. Purchases \$3,000 but less than \$50,000

A one-time purchase by a single department or from multiple departments under the same Department Director requires three written quotes. Two of the quotes shall be from HUB vendors as required by statute. A quote form should be completed and approved by the appropriate approval level in the above chart, prior to making the purchase. If service is performed on City

property a certificate of insurance shall be obtained. Work should not begin before insurance is obtained and verified.

D. Purchases \$50,000 and over

A one-time purchase or cumulative purchases by a single department or from multiple departments requires a formal sealed bid. All purchases over \$50,000 must also include a contract, insurance, and bonds (if needed). City Council approval is required. See Chapter 4 on Competitive Bidding requirements.

Section 4. Tax Exemption Certificate

The City is exempt from payment of all local tax, state sales tax, and federal excise tax, with the exception of Hotel/Motel tax. This is solely due to being a municipality.

When practicable the City will claim and insist on all of its purchases being exempt from sales and use tax. However, an exception to this is any single purchase of food related to travel, outreach and city-sponsored events when a single purchase is less than \$200. Purchases for these exclusions over \$200 must be approved in advance by the City Manager in writing.

At the time of purchase, vendors may request a Sales and Use Tax Exempt Certificate and/or a W-9 form be completed by the City prior to removing any sales tax from the invoice. Please contact the Finance Department to obtain a form to submit to the vendor.

Section 5. Purchasing Procedure Violations

Employees will be held accountable for the proper use and administration of the Purchasing Process. The Department Directors or Approving Manager is responsible for ensuring that employees comply with the policies outlined in this manual. The statutes governing local government purchasing impose criminal penalties for violating the provisions of various Acts enacted by the Legislature to oversee purchasing. Any misuse of the City's purchasing power carries various legal and/or future employment consequences.

LOCAL GOVERNMENT CODE 252.062 – CRIMINAL PENALTIES

A municipal 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 252.021. An offense under this subsection is a Class B misdemeanor. <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.252.htm>

Section 6. Exceptions to Competitive Bidding

In some cases, competitive bidding is not possible to procure a good or service. Below are the exceptions to utilizing a competitive bidding process. These exceptions must also accompany the *Sole Source/Emergency or Exceptions to Competitive Bidding Form* as well as a letter on

company letterhead in the event the purchase is a sole source purchase. An example of the form is located in the back of the policy.

A. Emergency Purchases

Texas statutes generally allow the local government to make “emergency or exempted purchases” without competitive bidding as per Texas Local Government Code 255.022 “General Exemptions”. A political subdivision is generally exempted from competitive bidding or contacting Historically Underutilized Businesses (HUB) if one of the following occurs:

1. Public Calamity – In the case of a public calamity, the prompt purchase of items is required to provide for the needs of the public or to preserve the property of the political subdivision.
2. Preservation or Protection – The item is necessary to preserve or protect the health or safety of residents of the political subdivision.
3. Unforeseen Damage – The item is made necessary by unforeseen damage to public property.

Normal Working Hours – The City Manager is authorized to declare or determine if an Emergency Purchase is warranted. When the emergency occurs during normal business hours and the expenditure exceeds the department approval limit, the Department Director shall contact the City Manager or his designee to obtain authorization. The City Manager shall advise the City Council of any such emergency in excess of \$50,000. Purchase Order (PO) should be prepared and approved by both the Department Director and the City Manager or designee as soon as possible. The Emergency Purchase Order (EPO) Form shall provide which emergency situation from the above list has occurred. The PO, EPO Form, and the invoice should then be turned into Accounts Payable for processing.

After Office Hours/Weekends/Holidays – When an emergency occurs after hours and the expenditure exceeds the department approval level, the department authorized designee should contact the Department Director for authorization and take whatever steps are necessary to make the procurement. The Department Director shall complete the EPO Form and obtain the City Manager or his designee’s signature the following morning. As stated previously, the EPO Form should justify which one of the occurrences from the list above resulted in the emergency.

Purchases made in emergency situations are more costly than routine purchases; therefore, they must be kept at a minimum. Poor planning, overlooked requirements or negligence may cause the need for expedited purchases, but are not true emergencies.

B. Sole Source Purchases

Quotes are not required if the materials, goods, or supplies can only be purchased from a sole vendor, in other words, a sole source. Reasonable efforts must be made to ensure purchases from sole sources are correctly classified as such. Materials, goods, and/or supplies cannot be requested so as to remove other suitable alternative vendors/sources. The department must attach justification to validate the sole source procurement meets one of the requirements listed below.

1. The good/service is a one of a kind or patented, copyrighted, secret process or unique item;

2. The product is only available from a regulated or natural monopoly; or
3. The product is a component of an existing system which is only available from one supplier.

Sole source purchases are approved only after the lack of alternate sources has been determined and proof of sole source is documented. The requesting department should do everything possible to strengthen the City's bargaining position. Costs related to procurement should always be considered before an order is placed, including post-purchase costs. Post-purchase costs could include multi-year maintenance contracts, replacement parts or trade-in value. Written justification should include one or more of the following:

1. Statement on company letterhead from vendor attesting to the fact that the item(s) being requested are only available from that vendor.
2. A statement from the Department Director or authorized designed providing information concerning previous attempts to obtain competitive bids on the item(s) requested including the name of the company and person contacted, in an effort to find other sources.

C. Other Exceptions

Maintenance of City Fleet Vehicles – The City has contracted with Enterprise Fleet Management (EFM) for the lease purchase of new City vehicles. In addition, maintenance and repair of City vehicles shall be taken to a vendor who is contracted with EFM. EFM staff will ensure that proper repairs and/or maintenance is completed on the vehicles and appropriate charges are incurred.

The following reasons are additional justification that an employee may not be able to utilize a competitive bidding process:

- The requested product is an integral repair part or accessory compatible with existing equipment.
- The requested product has unique design/performance specifications or quality requirements that are not available in comparable products.
- Repair/maintenance is available only from manufacturer or designated service representative.
- Upgrade to enhancement of existing software is available only from one manufacturer.
- Purchase of land, right-of-way, or buildings
- Services performed by blind or severely disabled person
- Goods purchased for the subsequent resale
- Service proposed by vendor is unique; therefore, competitive bids are not available or applicable.
- Professional Services (See Section 7 below on further requirements)

Local Government Code Chapter 252.022 Competitive Requirements for Purchases defines the general exemptions: <https://statutes.capitol.texas.gov/SOTWDocs/LG/htm/LG.252.htm>

Section 7. Professional Services

Cities are prohibited by law from awarding a contract by competitive bidding for some professional services including architects, interior designers, engineers, or certified public accountants. The Professional Services Procurement Act established a set of procedures that must be followed to contract for these services.

The selection of these providers shall be based on demonstrated competence, experience, and qualifications of the firm.

Section 8. Lease Purchases

State law authorizes cities to enter into lease purchase agreements. However, normal statutory procurement requirements generally apply to these lease purchase agreements. This is the case when a lease purchase agreement for personal property will involve an expenditure of more than \$50,000 in city funds. The contract must then be competitively bid unless the type of item purchased is covered by a specific exception to the statutory procurement requirements.

All lease purchases shall be coordinated by the Finance Department due to this type of purchase and financing being unique and accounted for differently.

Section 9. Purchasing Card Program (P-Card)

The P-Card is a method that allows employees to make small dollar approved City purchases quickly and efficiently by paying vendors immediately with a credit card. A purchase shall not be made with a card unless it is the most productive purchasing method. All employees issued a P-Card are expected to understand all City policies related to using City funds. At no time does the P-Card override the City's purchasing policy, which is guided by procurement law. The City bears no legal liability from inappropriate use. (See the City's Purchasing Card Policy)

Section 10. Purchase Order Processing

All invoices shall be accompanied by a purchase order unless otherwise indicated below. Purchase orders shall be submitted to Accounts Payable for processing after obtaining the appropriate approval signatures with all supporting documentation attached. Purchase orders submitted without appropriate approval or required documentation will be returned to the originating department. Subject to the limits on the City Manager's authority to make purchases and enter into contracts on behalf of the City, purchases of the following items do not require the solicitation of bids or purchase order. However, if the purchase was made by a purchasing card, a PO made payable to J P Morgan will be required. Departments shall clearly place the vendor number and account number on the invoice itself.

- Insurance Premium Payments
- Retirement System Payments (TMRS) or other Payroll Expenditures
- Debt Service Payments
- Utility Service Payments

- Operating Leases/Maintenance Agreements
- City Fleet Fuel Payments
- Contracted Services
- Registration Fees
- Membership/Professional Association dues and fees
- Postage
- Subscription Services

Section 11. Receiving and Inspection

When materials, equipment, or supplies are received, the department/division that placed the order is responsible for inspecting the shipment and initiating the payment process. This should be done as promptly as possible to take advantage of early payment discounts and/or give the Accounting Technician time to avoid interest penalties and comply with the 30-day payment requirements by state law.

Section 12. Prompt Payment Act

Department shall ensure Purchase Orders, invoices, and the appropriate documentation is submitted to Finance in a timely manner. Invoices are to be paid no later than net 30 days.

Texas Government Code Chapter 2251 stipulates that all local governments shall pay for goods and services within thirty (30) days of the delivery or invoice date or interest is automatically imposed.

CHAPTER 4 COMPETITIVE BID PROCESS



CHAPTER 4 COMPETITIVE BID PROCESS

Section 1. Request for Quote (Purchases \$3,000 and less than \$50,000)

Disadvantaged Businesses/Historically Underutilized Businesses:

A municipality in making an expenditure of more than \$3,000 but less than \$50,000, is required by state law to contact at least two (2) disadvantaged businesses or historically underutilized businesses (HUB) on a rotating basis, in accordance with Texas Government Code, Title 10, Subtitle D, Section 2161 and the General Services Commission Rule I TAC 111.11-111.24. If the list fails to identify a HUB in the County in which the city is situated, the City is exempt from this section. HUB vendors must complete the certification process with the State of Texas Comptroller of Public Accounts. See link below to the Texas Comptroller of Public Accounts website to perform a search for HUBs.

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>

Price quotes should be solicited from an adequate number of vendors on a rotating basis to ensure competition. Departments are encouraged to use the Ion Wave purchasing software to pursue multiple quotes and ensure HUB vendors are contacted.

Section 2. Bid/Request for Proposal Process (RFP) (Purchases \$50,000 and Over)

Departments must take caution when determining whether a procurement requires a competitive bid process. No specifications are to be written with the intent to exclude a possible bidder. The following circumstances need to be considered and well thought out as they are of particular concern to a city when departments are making a determination if a bid is required.

1. A city does not competitively bid an item because the total expenditure would be below the \$50,000 threshold and later purchase more items or more services are procured. The extra procurement would take the total over the threshold. If the department knows this is a possibility, even though the current procurement is under the threshold, a competitive bidding process shall be utilized.
2. Individual departments making their own purchases of commodities or services that in total take the City over the threshold. If the City in total reaches the threshold, a competitive bidding process shall be utilized.

As stated in Chapter 3, Section 5, State law provides criminal penalties if a city makes component, sequential or incremental purchases to avoid the competitive bidding requirements. If such a charge is at issue, the prosecuting attorney would require the facts surrounding the involved transaction. It is advisable for departments to look at their purchasing practices over past budget years and consider whether certain items should be purchased through a competitive process.

A. Procedure Requirements for Bids/Request for Proposals (RFP)

State law requires competitive bidding for expenditures over \$50,000. The City may choose the bid process or the Request for Proposal option. Both options require City Council approval and award.

The competitive bidding process has two purposes. The first one being to ensure that public monies are spent properly, legally and for public projects only and to ensure the best possible value is received for the money. Additionally, it is utilized to give those qualified and responsible vendors who desire to do business with the City a fair and equitable opportunity to do so. Below are the requirements for bids and proposals:

- A notice must be published establishing the time and place at which bids or proposals will be publicly opened. The notice must be published at least once a week for two consecutive weeks. The notice must be published in a newspaper that is published in the City. The first publication must appear before the 14th day before the date that the bids or proposals are unsealed.
- Specifications detailing the requirements that must be met by the goods or services or information how to obtain copies of the specifications shall be included in the publication.
- Competitive bidding can be on a lump sum or unit price basis.
- In the event other factors other than price are utilized to make the selection, such as previous performance, the specifications shall clearly state that such factors will be considered in the award.
- The department must determine prior to the advertisement and before the notice is given the method of procurement that provides the best value for the City.
- All bids shall be received through the Ion Wave purchasing software which will time and date stamp as the bids are delivered.
- All bids shall be submitted and opened through the City's Ion Wave purchasing software system at the designated time and place by the Finance Director or his designated representative.

B. Establishing Bid Specifications

A specification is a concise description of goods or services the City seeks to buy and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection or preparing an item for delivery, or preparing or installing use of it. The specification is the total description of the purchase.

The purpose of any specification is to provide personnel with clear guides for purchasing, and to provide vendors with firm criteria of minimum product or service acceptability. A good specification has four characteristics:

1. *It sets a minimum acceptability of goods or services.* The term “minimum acceptability” is key since the vendor must know the minimum standard to determine what to provide. A standard too high means tax dollars will be wasted. A standard too low means the goods or services will not meet the expectations of the user.
2. *It should promote competitive bidding.* The maximum number of responsible vendors should be able to bid the specification. Restrictive specifications decrease competition.

3. *It should contain provisions for reasonable tests and inspections for acceptability of the good or service.* The methods and timing of testing and inspection must be indicated in the specification. Tests should refer to nationally recognized practices and standards, when possible.
4. *It should provide for an equitable award to the lowest responsible bidder.* The buyer obtains goods or services that will perform to expectations, and the vendor is able to provide the goods or services at an agreeable price.

C. Awarding the Bid

Best Value – If best value is utilized, below are a list of items the department may utilize to make the determination of “best value” for the City.

- Purchase price;
- Reputation of the bidder;
- The bidder’s safety record;
- Warranties;
- The quality of the bidder’s goods or services;
- The extent to which the goods or services meet the City’s needs;
- The bidders’ past relationships with the City or Department;
- The impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses (HUB) and nonprofit organizations employing person with disabilities;
- The total long-term cost to the City to acquire the bidder’s good or services; and
- Any relevant criteria specifically requested in the bid or proposal.

In the event no bids are received, the Department must re-advertise or choose to not undertake a contract. If only one bid is received, the City Council may choose to accept the bid, reject the bid and re-advertise, or determine not to undertake the project.

Bids are opened and read aloud at the designated time and place. The bid/bids must then be presented to City Council. The City Council must then award the bid to the lowest responsible bidder or if previously determined, the bidder with the “best value”. The City Council does have the option to reject all bids as well.

Once a bid has been opened, it may not be changed or altered to correct minor errors in the price. However, under some circumstances, a bidder may be able to withdraw a bid if it contains a substantial mistake that would cause a great hardship if enforced against the bidder.

D. Contested Bids

If a department is made aware of or is contacted by a vendor regarding a protest relating to advertising of bid notices, deadlines, bid opening and all other related procedures under the Local Government Code, as well as any protests relating to alleged improprieties or ambiguities in the specifications, the Department Director should first attempt to determine the reasons behind the potential protest. If the Department Director fails to satisfy the vendor, they shall instruct the

vendor to prepare a written protest. At said time the Department Director shall notify the City Manager and City Attorney.

Appeals of protest of awards for \$50,000 and over shall be filed with the City Secretary with a concurrent copy to the City Manager and City Attorney.

The written protest should include the following:

- Include both the name and address of the protester, as well as the vendor they represent, if different.
- Identify the bid number and item.
- Contain a statement of the grounds for protest and any supporting documentation.
- Protest must be submitted within five (5) days of the bid opening.

E. Awarding the Request for Proposal (RFP)

If an RFP is utilized and the best value option was established prior to the solicitation, the same criteria listed above can be used to award the RFP.

When the RFPs are opened and acknowledged by Ion Wave purchasing software, the vendor name is the only item identified. This is to avoid disclosure of the contents of the proposals to competing proposers until after the award of the contract. All proposals are open for public inspection after the contract is awarded, but trade secrets are confidential information in the proposal and are not open for public inspection (see Local Government Code, Chapter 252.049).

Unlike bids, once the proposals have been submitted, the City may conduct discussions with the offeror or offerors whom the City determines to be reasonably qualified for the award of the contract. However, such discussions must comply with the RFP and any guidelines established by the City Council.

To obtain the best offers, the City may allow the submission of revisions after proposals are submitted and before the award of the contract. (see Local Government Code, Chapter 252.042). All offerors must be treated equally and fairly with respect to any opportunity for discussion and revisions to the proposals.

Some of the items that should be evaluated and considered when reviewing an RFP are as follows:

- All calculations and sums shall be double checked for accuracy.
- Unit prices shall be extended to a total price for the requested quantity;
- The proposal shall be verified that it has been signed by an authorized signer of the vendor;
- Verify all of the specifications outlined in the RFP have been met;
- List all areas where it fails to meet any condition(s) included in the specifications and whether any failure disqualifies the proposal;
- Verify all required samples are included; and
- Include results of testing of samples, if required.

Contracts awarded by proposals are awarded by City Council. The contracts must be awarded to

the responsible bidder whose proposal is determined to be the most advantageous to the municipality, considering the relative importance of price and the other evaluation factors included in the RFP. (see Local Government Code, Chapter 252.043).

The evaluation and recommendation should include at least the following:

- Merits of each proposal with recommendations about which one should be selected;
- Whether the vendor has submitted a responsive proposal, meeting all criteria in the RFP;
- Give information about whether the vendor has a record of being a responsible bidder, capable of performing a contract and/or appears financially and technically capable of adequately performing the contract; and
- Details of areas to be negotiated, including desired changes in the proposal.

F. Verification of Insurance

Vendors on City property or public right-of-way for the City of Anna shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverage's as required or that the subcontractors are included under the contractor's policy.

All insurance and certificate(s) of insurance shall contain the following provisions: (1) name the City, its officers, agents and employees as additional insured's as to all applicable coverage with the exception of Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to the City for cancellation, non-renewal, or material change of the insurance; (3) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating services.

The vendor shall during the term hereof maintain in full force and affect the required insurance. The City reserves the right to amend or require additional types depending on the nature of the work.

G. Bonding Requirements

The Local Government Code mandates that a city contracting for public work in excess of \$50,000 shall require its contractor to execute a payment bond solely for the protection of beneficiaries who supply materials and labor to the public works project and have a direct contractual relationship with the contractor. The payment bond shall be in the amount of the contract.

The Local Government Code also mandates that a city contracting for public work in excess of \$100,000 shall require its contractor to execute a performance bond solely for the protection of the City. The performance bond protects the City in the event of a contractor default and/or termination. The performance bond must also be written for the total cost of the contract and

shall be executed by a corporate surety in accordance with the Insurance Code prior to commencement of the work.

H. Change Orders to Contracts

After a City has awarded a bid or contract, a city may still increase or decrease the quantity of work to be done or supplies to be furnished if it is necessary to do so. Such changes may not increase or decrease the original contract price by more than 25 percent. In the event the increase goes above 25 percent, the City shall must seek bids or proposals for the work or product which would go beyond the 25 percent. If the City wants to decrease the contract amount by more than 25 percent, it shall obtain the approval of the contractor for such a change.

Section 3. State Contracts and Cooperatives

Texas Government Code, Chapter 791, and Texas Local Government Code, Chapter 271, authorize the use of local cooperative purchasing programs. These chapters authorize the City to use (piggyback on) another entity's bid and likewise allows another entity to use the City's contracts. This action allows cities to obtain more advantageous volume purchases including administrative savings and other benefits. These agreements must be in the form of an Inter-local Cooperative Agreement which must be presented to Council for them to authorize the City Manager to execute the agreement.

In addition to local cooperative purchasing programs, cities may also utilize contracts competitively awarded by the State of Texas or the State of Texas Cooperative Purchasing Program. The state purchasing cooperative promotes best value procurements through state contract usage at the local level. In order to become a member of a state purchasing program, City Council must pass a Resolution authorizing the City to participate in the program. A minimal fee is then required annually to remain an active member in the program. Below is a list of some of the purchasing cooperatives:

- ❖ Collin County Governmental Purchasing Form (CCGPF)
- ❖ Buyboard – <https://www.buyboard.com>
- ❖ Department of Information Resources (DIR) – <https://dir.texas.gov>
- ❖ Houston-Galveston Area Council (H-GAC) – <http://www.h-gac.com>
- ❖ Texas Multiple Award Schedule Program (TXMAS) – <https://comptroller.texas.gov/purchasing/contracts/txmas/>
- ❖ Sourcewell (Formerly National Joint Power Alliance) - <https://www.sourcewell-mn.gov/>
- ❖ The Interlocal Purchasing System (TIPS) – <http://www.tips-usa.com>
- ❖ OMNIA Partners (Formerly National IPA and U.S. Communities) – <https://www.omniapartners.com/publicsector/national-ipa-an-omnia-partner>

CHAPTER 5 DISPOSAL OF SURPLUS PROPERTY



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Disposal of surplus property may be sold by public auction (private auctioneer), Internet sale, or sealed bids to the highest bidder. Employees may not directly purchase City property, unless it is through the channels listed above where they are the highest bidder.

As surplus properties become available, notice of the items shall be circulated to all departments to determine whether any items could be used in another area of the City.

If the property is deemed to have no value, or if the value is less than the cost to process for an auction, it will be disposed of by the most convenient method.

Finance shall be notified of any auction items to ensure the tracking of the fixed assets are maintained.

CHAPTER 6 DEFINITIONS

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

Best Value - A procurement method that emphasizes value over price. The best value may not be the lowest cost. Value may include a combination of reputation, quality, long-term costs, services, and time.

Bid Types –

- a. Request for Quote (RFQ) Procurement process for purchases \$3,000-\$49,999
- b. Request for Bid (RFB) Procurement process for \$50,000 or greater
- c. Request for Proposal (RFP) Negotiable Procurement process for \$50,000 and greater.

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

Change Orders - Change orders may address differences in order quantity, quality, damages, or additions. The original contract price may not be increased (under section 252.048 of the Local Government Code) by more than 25% without going out for bid. The original contract price may not be decreased under this section by more than 25% without the consent of the contractor.

Competitive Bidding – A transparent procurement process in which bids from competing contractors, suppliers or vendors are invited by openly advertising the scope, specifications, and terms and conditions of the proposed contract. The aim of competitive bidding is to obtain goods and services at the lowest price for such goods or services through competition and preventing favoritism. The City determines the lowest bidder that is responsible and awards the contract to the lowest bidder.

Competitive Proposal Process – A transparent procurement in which proposals from competing contractors, suppliers, or vendors are invited by openly advertising the scope, specifications, and terms and conditions of the proposed contract.

Cooperative Procurement – The action taken when two or more entities combine their requirements to obtain advantages of volume purchases or a variety of arrangements whereby two or more public procurement units purchase from the same vendor using a single RFP.

Emergency Purchase Order (EPO) – Emergencies are defined to remove hazards, to protect property and people, to alleviate financial loss and operation damage, and to expedite repairs. The Emergency Exception to Competitive Bidding Form shall be completed and signed by the City Manager by the next business day.

Historically Underutilized Business (HUB) – Texas Administrative Code, Chapter 2161 defines a “Historically Underutilized Business” or “HUB”, in part, as one with ownership by “a person who is economically disadvantaged because of the person’s identification as a member of a certain group, including black Americans, Hispanic Americans, women, Asian Pacific

Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control”. Also referred to as a disadvantaged business, Minority/Woman-owned Disadvantaged Business Enterprise or M/W/DBE.

Invitation to Bid (ITB) – Specifications and formal bidding documents requesting pricing for a specified work, good, or service which has been advertised for bid in a newspaper.

Invoice – An itemized statement of merchandise or service provided by a vendor. It is the means for settlement of financial obligations incurred when the purchase order is issued.

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

Lowest Responsible Bidder – The offer that provides the lowest price meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid, including any related costs to the City in a total cost concept and which submittal, including all reported references contained therein, provides the City with sufficient evidence of the bidder’s financial and practical ability to perform the contract, references of past performance indicating the ability to comply with the Contract and satisfactorily complete the subject work, and other information provided to or obtained by the City demonstrating the subject bidder’s capabilities, competence, and success.

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

Payment Bond – A surety bond executed in connection with a contract that secures solely for the protection and benefit of those persons or entities that have a direct contractual relationship with the Contractor to supply public work labor or material (Payment Bond Beneficiaries) and with which such Contractor the City has contracted for a particular contract the payment obligation of that Contractor to the Payment Bond Beneficiaries.

Performance Bond – A surety bond that provides assurance to the City that the Contractor will faithfully perform the work in accordance with the plans, specifications, and contract documents.

Professional Services – Services rendered by members of a recognized profession possessing a special skill/education as defined in Local Government Code.

Purchase – The act of obtaining approved goods or services by an authorized City representative.

Purchase Order (PO) – A legal contract for the purchase of goods and services establishing the terms and conditions and incurs a financial obligation.

Request for Proposal (RFP) – A document requesting a proposal from vendors that specifies the relative importance of price and other evaluation factors, and which allows for negotiations after a proposal has been received and before award of the contract for the goods and services sought. (See also Competitive Proposal Process above)

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 or in conjunction with an alternative bid delivery process.

Sealed Bids – Offers in response to an invitation to bid that is advertised in a newspaper and submitted to the City Secretary in a manner that conceals the price.

Separate Purchase – Purchases made separately of items that in normal purchasing practices would be purchased in one purchase.

Sequential Purchases – Inappropriate separation of purchases to avoid the required process of obtaining quotes or bids.

Sole Source Purchase – Purchases that can be made from only one vendor as defined by State Law.

Specifications – Detailed description for an item or service. Specifications must be complete and sufficiently defined in order to provide the exact product or service required.

Tax Exemption – The City is tax exempt from paying local or state sales tax, and federal excise tax. The City is not exempt from Hotel Occupancy Tax.

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