



## **GUADALUPE COUNTY PURCHASING POLICY AND PROCEDURES**

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**TITLE:** Purchase of Goods and Services

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**EFFECTIVE DATE:** October 13, 2009

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**APPROVED:** October 13, 2009

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### **PURPOSE**

The purpose of this policy is to establish guidelines and accountability for the expenditure of taxpayer funds used to procure goods and services by all County departments. The processes used to procure goods and services should always provide the best value for the County, while providing an open and fair process for vendors.

These policies are approved by the Guadalupe County Commissioners Court. Therefore, as necessary, appropriate revisions may be made to these policies at the discretion of the Commissioners Court.

This policy is for the use of Guadalupe County employees and officials and is designed to assist them in complying with the laws governing county purchasing procedures. This policy does not create any rights of individuals or entities enforceable against Guadalupe County.

### **GUADALUPE COUNTY PURCHASING – GUIDING PRINCIPLES**

It is the policy of Guadalupe County that the following ethical principles govern the conduct of every employee and official involved, directly or indirectly, in the County procurement process.

Public employees and officials must discharge their duties impartially so as to assure fair competitive access to County procurement by responsible contractors. Moreover, public employees and officials should conduct themselves in such a manner that fosters public confidence in the integrity of the Guadalupe County procurement process.

Employees and officials shall avoid the appearance of impropriety and always act in the best interest of Guadalupe County. A conflict of interest exists in any relationship where the County's best interest may be different from the employee's or official's and include an employee or official participating in any way in any procurement which:

- The employee or official or any member of their family has a financial interest in the results of the County procurement process; or
- Any other person, business, or organization with whom the employee or official or member of their family is negotiating for or has an arrangement concerning prospective employment.

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

Employees and officials 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.

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Generally, goods or services with a value of \$100 or less in the aggregate from a vendor during the year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision.

### **ROLES AND RESPONSIBILITIES**

#### **COUNTY DEPARTMENTS**

The role of the County departments (which shall be inclusive to mean all elected officials, department heads, employees and volunteers) shall ensure that while procuring goods or services they get the best value, follow state purchasing law, and follow any applicable state or federal purchasing guidelines as applicable to the source or use of funds.

#### **Compliance with the Law**

All departments shall comply with state laws regarding procurement, including but not limited to the County Purchasing Act, and to all state and federal grant requirements.

Departments need to recognize that using purchasing strategies designed to avoid formal competitive bidding such as component purchases (purchasing in pieces rather than purchasing as a whole), separate purchases (purchasing goods in a series of separate purchases that normally would have been combined) and sequential purchases (purchases made over a period of time that would normally have been made as one purchase) violates State law.

#### **Ethical Procurement**

Purchasing shall be done using the highest ethical standards. Neither use of their position nor personal influence shall be used to secure special privileges, prices, or exemptions for themselves or others. Contracts should be awarded based on demonstrated competence and lowest cost to the County. If a conflict of interest exists, departments shall notify the County Auditor of a business or personal relationship with a prospective vendor in writing and remove themselves from the procurement process.

#### **Purchasing for Grants**

The department who was awarded the grant is responsible to adhere to all procurement guidelines, policies, and procedures in the application, assurances, award, and documentation of the state or federal grant.

Departments must strictly adhere to all procurement requirements of federal grants, programs, or allocations noted in the Circular OMB A-133 and supplements as applicable by the Catalog of Federal Domestic Assistance (CFDA) Number. The CFDA number is provided for all federal funding sources. Where specific procurement direction is not provided for in OMB A-133 or supplements, the department shall abide by the "common rule" which is published by each separate federal agency.

Departments must document that any person, vendor or its principals who are paid using a federal grant, program or allocation is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. The department shall "check debarment status on the web" by going to the federal website <http://www.epls.gov> to see if a vendor is on the government list of debarred vendors. The vendor is debarred if listed and is in good standing if not on list.

In order to demonstrate compliance with grant procurement requirements and conditions, the department must document and keep records that provide evidence of compliance for all grant purchases.

#### **Accounting for Controlled and Capital Assets**

Departments shall work with the County Auditor to facilitate the inventory of County controlled and capital assets and ensure that all assets are tagged with the County's bright yellow numbered id tags.

#### **Professional and Personnel Services**

Departments shall purchase professional and personal services in accordance with law and any state or federal procurement guidelines, policies or procedures.

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## **COUNTY AUDITOR**

The County Auditor will assist departments in the purchasing of goods and services in accordance with the bidding procedures and the needs of the County departments. The bidding procedures for goods and services for the County are set forth in the Texas Local Government Code Chapter 262 and Chapter 271.

### **Issue Purchase Orders (Requisitions)**

Auditor's office will issue purchase orders (PO's) which will act as a requisition and encumber (hold) funds within a department's budget for that purchase.

### **Assist Departments with Competitive Bidding**

If a department decides that a competitive bid will best meet their needs, then the department will provide technical specifications to ensure that the purchase meets their needs. The Auditor's office will incorporate the technical specifications with general terms and specifications to develop a complete bid package.

### **Assist Departments with Cooperative Purchasing Contracts and State contracts**

In meeting the competitive bidding requirements, the departments may make purchases through existing state contracts or other cooperative purchasing contracts. The Auditor's office will assist the departments in placing orders (to ensure compliance with each of the programs requirements) and will verify the order with the department prior to placing the order (to ensure the correct order and pricing).

### **Compliance**

The Auditor's office will periodically check departments to ensure that they are following State and Federal procurement guidelines, policies, and procedures of state and federal funds. The Auditor's office shall work with departments to monitor vendor compliance with contract terms and conditions, quality of goods or services and timely renewal or re-bid.

### **Purchasing Recommendations**

The Auditor's office shall work with the department and make recommendations on contract awards to Commissioners Court for purchases supervised through the competitive purchasing process exceeding \$50,000 in the aggregate.

### **Tag Controlled and Capital Assets**

The Auditor's office shall supervise the acquisition, tracking, monitoring, disposal, and reporting of County fixed and controlled asset types in accordance with law and County purchasing policy and procedures.

## **VENDORS AND PROSPECTIVE SUPPLIERS**

The County welcomes the opportunity to do business with all vendors. The County is interested in fostering participation by all businesses offering goods and services utilized by the County departments and offices. Each department has the responsibility of making the most economical acquisition of quality goods and services to ensure efficient operation.

- Request clarification, delineation, or explanation of a quote, bid or proposal in writing to either the County Auditor or to the individual specified in the solicitation document when competing for a procurement opportunity;
- Respond to County requests and solicitations with fair and competitive pricing; and
- Deliver commodities and services in a timely manner and in accordance with terms of the contract award.

## **STAGES OF PROCUREMENT**

The terms "purchasing" and "procurement" are often used interchangeably. However, "purchasing" is only one stage of the procurement cycle. The stages of procurement are:

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- *Planning and budgeting* - Planning is necessary for various efficiency reasons that impact commissioners court budgetary processes and operational programs. Good planning is necessary in order to consolidate purchases to achieve economies of scale and ensures that goods and services are delivered timely to meet operational needs.
- *Purchasing* - The process through which solicitations are issued, offers are made, contracts awarded, and goods or services received.
- *Contract administration* - The process of ensuring the terms of the purchase agreement are enforced, goods and services delivered satisfactory, and the bills are paid.

### **PURCHASING AUTHORITY AND GENERAL GUIDELINES**

#### **COUNTY PURCHASING ACT**

Generally, in the absence of overriding federal law or grant regulations, the County Purchasing Act (Local Government Code, Chapter 262, Subchapter C) defines the purchasing laws for counties. General guidelines for purchasing and utilization of this manual are as follows:

Generally, competitive bidding is required on any purchase likely to equal or exceed **\$50,000**.

In lieu of the county issuing a competitive bid, state law allows for purchasing through existing contracts through state agencies and through cooperative purchasing agreements.

Professional and Personal Services – Professional and Personal Services are exempt from competitive bidding, in most cases they will be obtained through Requests for Proposals or Requests for Qualifications.

#### **PURCHASE ORDERS / REQUISITIONS**

A requisition is required for all purchases (Texas Local Government Code §113.901). In Guadalupe County, the requisition has always been referred to as a purchase order (PO), and to avoid confusion, will be referred to in this document as a purchase order. Purchase orders are an integral part of the financial system and of financial accountability. The purchase order encumbers, or holds, the budgeted funds ensuring funding availability when the invoice is received.

#### **EMERGENCY PURCHASING**

Emergency purchases are authorized in extremely limited circumstances: (a) in the event of public calamity for the benefit of the County citizens or to protect public property; (b) in order to protect the public health or safety of County residence; or (c) when made necessary by unforeseen damage to public property. (See Attachment “A” at the end of this document for specific purchasing procedures regarding emergency or disaster purchasing.)

### **PURCHASING PROCEDURES**

#### **PURCHASE ORDER GUIDELINES**

Before requesting a purchase order, the department should seek:

- pricing from various vendors; and
- verify that funds are available in their budget.

If the amount is greater than \$50,000 or other departments purchase this same commodity then the department will need to follow the County Purchasing Act, and either competitively bid the commodity, purchase it using cooperative purchasing, or request the Commissioners Court declare the purchase a sole source item.

After this determination, the department should contact the Auditor’s Office to receive a purchase order. The department must give the vendor’s name, description of items purchased, general ledger expense line,

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and amount of purchase. Authorized employees may only get purchase orders for their department (departments will submit a list of approved employees and can update or change this list to meet their needs). Purchase orders must be requested and received by the department before any services are rendered or goods are ordered.

It is important that the purchase order amount is correct. It is the responsibility of the department to see that all purchased items conform to the quantity, quality, and specifications of the order. If the order comes in as multiple shipments or multiple invoices, it is the responsibility of the department to note or document on the invoice that the purchase order is not complete.

If the goods or services are unacceptable or are not received, **DO NOT SIGN THE INVOICE** for approval for payment, until the defect has been corrected or goods/services have been received. Once payment has been made, the department has limited avenues to correct a problem.

If the amount of the original purchase needs to be increased (e.g. shipping is added to the purchase) or the vendor has changed, the department should call the Auditor's office promptly to let them know of this change. Notification is also requested if the amount of the purchase order substantially decreases (example: vendor only had ten sign posts and the purchase order was requested for fifty sign posts).

Items cannot be added to outstanding purchase orders; this is considered a separate purchase (with the exception of blanket purchase orders). Items added to a purchase after the initial purchase order, will be processed without a purchase order, will require special department head approval, and will delay payment processing.

In the event of an emergency, purchase orders can be requested on the next business day. (e.g. plumber needed at the Adult Detention Facility on a Sunday)

### **BID PROCEDURES**

Local Government Code §262.023 set limits for requirements of formal bids. No specifications are to be written with the intent to exclude a possible bidder. Competitive bids can be let on either a lump sum or unit price basis. If unit price basis bids are solicited, the needed quantities of each item should be estimated should be to the best of the departments' ability to provide this information. The successful bidder's compensation, however, will be based on the actual quantities supplied, furnished, or constructed. In applying competitive bidding and competitive proposal requirements, all separate, sequential, or component purchases of the items are treated as if they are a single purchase and a single contract.

The Auditor's office will assist the departments in preparing the bid documents, however it is the responsibility of the department to prepare the technical specifications. The technical specifications are the most important part of the bid documents, because this determines the quality of what is received. It is also important for the department to carefully review the bid documents before Commissioners Court approval, to ensure that the bid documents meet all the needs of the department (e.g. delivery times). It is important that the department must be present at the Commissioners Court meeting during which the specifications are approved and at the meeting when the bid is awarded.

The department must prepare the technical specifications far enough in advance of the desired purchase date to allow time for the development of the bid documents and for the bidding process. The Auditor's office needs about two (2) weeks to make minor changes to existing bids and six (6) weeks to prepare a new bid package. After the bid package is prepared, the department must obtain Commissioners Court approval, advertise in the newspaper (once each week with the first publication 14 days prior to the bid opening), open the bids in a public forum, review the bids and make recommendation to the Court on the lowest and best bid, prior to the bid being awarded.

### **BID OPENING / RECEIPT OF PROPOSALS**

All bids and proposals will be received and clocked in by the County Judge's office. The County Judge's office clock-in time / stamp will be the official time of receipt. The Auditor's office will open all formal bids in

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the Commissioners Courtroom, at 307 W. Court, Suite 200, Seguin, Texas. The bids and proposals will be opened in a public forum on the assigned day at the designated time.

Competitive bids will be opened and the bid prices read aloud, whereas, competitive proposals will be acknowledged only, so as to avoid disclosure of the contents to competing participants during the negotiation and evaluation process. However, all proposals shall be available for public inspection after the contract is awarded. Trade secrets and confidential information contained in the proposal must be identified as such by the bidder and will be treated as confidential by Guadalupe County to the extent allowable in the Open Records Act.

### **BID RECOMMENDATIONS**

The requesting department and the Auditor's office will review the bids received. In coordination with the recommendation of the department, the Auditor's office will prepare a recommendation letter to present to the Commissioners Court. In accordance with Local Government Code §262.027 (c) "a contract may not be awarded to a bidder who is not the lowest dollar bidder meeting the specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before Commissioners Court and present evidence concerning the low bidder's responsibility.

### **PROPOSAL RECOMMENDATIONS**

Bids are not negotiable. However, the Local Government Code does allow certain items or services to be procured using a request for proposal. Proposals will be evaluated and negotiated by the requesting department. All bids and proposals will be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Revisions are permitted after submission and before award for the purpose of obtaining the best and final offer. The requesting department shall, with the assistance of the Auditor's office, present the best and final offer to the Commissioner Court for award.

### **BID AWARD**

Bids may not be changed or altered after the bid opening. Bids will be awarded to the lowest and best responsible bidder, or all bids may be rejected.

The Commissioners Court may award contracts for the purchase of road construction materials to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material. If two or more responsible bidders submit identical bids, the bid award will be made in a manner prescribed by the County Judge.

### **PAYMENT PROCESSING**

It is the responsibility of the department to receive and thoroughly inspect all orders. The department should inspect each order to ensure that:

- the correct items were received (based on the order)
- the shipment was in good condition
- the correct quantity was received (no shortages or back orders)
- the services were performed in a satisfactory manner
- the pricing was correctly invoiced

If a shipment is not acceptable, it is the responsibility of the user department to contact the vendor and/or the Auditor's office for appropriate action. When assured that the proper items in the proper quantities are received in the proper condition, the department should sign the invoice and submit it to the Auditor's office for payment.

When the full quantity of merchandise has not been received, but due to various reasons the department wishes to consider the order complete, as is, the department should e-mail or send written notice to the Auditor's office that the purchase order is complete and to close the Purchase Order (which will unencumber the funds).

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## **GUADALUPE COUNTY PURCHASING POLICY AND PROCEDURES**

### **INSURANCE, WORKERS' COMPENSATION AND LIABILITY COVERAGE**

Depending on the type of bid, workers compensation and liability coverage may be required. The state law and/or the bid specifications will provide the requirements.

### **ACQUISITION UNDER A BLANKET PURCHASE ORDER**

A blanket purchase order authorizes a County department to obtain up to a specified dollar amount of material (services or supplies) on a continuing basis from a specific vendor. Such purchase orders are authorized only by the Auditor's office in appropriate circumstances. (e.g. obtaining rock as needed in variable quantities by the Road & Bridge Department) Any department foreseeing a definite and regular need should contact the Auditor's office to discuss obtaining a blanket purchase order for such items.

Blanket purchase orders anticipated to exceed \$50,000 during the course of a year must be competitively bid. Blanket purchase orders may not exceed budgeted funds for such purchases by the department.

### **SOLE-SOURCE PURCHASING**

Typically items considered sole source purchases include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts, components for equipment, and films, manuscripts or books. Such items may be purchased from a sole source without competitive bidding only after the department certifies the existence of only one source to the Commissioners Court and enters a finding of such in the Courts minutes. (Local Government Code §262.024)

### **CATALOG INFORMATION SYSTEM PURCHASES**

Automated information systems may be purchased through a Qualified Information System Vendor using the Best Value guidelines established by section 2157.003 of the Government Code. All contracts exceeding \$50,000 will be presented to Commissioners Court for approval. Guadalupe County Management Information Services (MIS) Department will make all recommendations on CISV purchases (Government Code §2157).

### **COMPUTER TECHNOLOGY ITEMS**

All purchases for high technology items must go through the Management Information Services (MIS) Department. This includes, but is not limited to, computers, printers, scanners, UPS systems, video camera systems, phones, and phone systems.

### **OFFICE SUPPLY ORDERS**

Office supplies are purchased through a cooperative purchasing agreement approved by the Commissioners Court at a discounted rate. Office supplies must be purchased from this approved vendor.

Departments are issued a new catalog annually or are able to view items on-line. Orders are sent (on-line order system, hard copy, fax or e-mail) to the Auditor's Office. The Auditor's Office places orders as they are received. In most cases, orders are delivered directly to the department and will be received within 2-4 business days of the order being placed. Special orders, out-of-stock items, and not frequently ordered items may take longer to receive.

It is important that departments review packing slips to make sure that all items are received and that the correct items are received. If the pricing on the packing slip is correct and the shipment was correct, the department head or designated employee may send the signed packing slip to the Auditor's office as authorization to pay the corresponding invoice.

### **PURCHASE ORDERS AND YEAR END CUT OFFS**

Approximately one (1) month before the end of the County's fiscal year, the Auditor's office will establish a cut off deadline for purchase orders to make any "non-emergency" purchases.

After the cut off date, purchase orders will be issued only on a critical needs basis. A critical need is defined as an emergency or a situation that would disrupt the department. The failure to place an order, attempting to use remaining budgeted funds, or lack of planning does not constitute a critical need. Notification of this deadline will be in the annual end of year memo which is distributed to all departments.

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This is done in order to allow adequate time to process all of the necessary paperwork to close the books for the end of the fiscal year.

### **WHICH FISCAL YEAR?**

The County is under a modified accrual system of accounting. This means that goods must be received or services performed by the end of the County's fiscal year, September 30<sup>th</sup>, in order for those expenditures to be coded to that fiscal year. Expenses incurred on October 1<sup>st</sup> or later will be an expense in the new fiscal year.

### **STATUTES**

County procurement is governed by the following statutes, including but not limited to:

Civil Practice and Remedies Code §106.001 (Non-Discrimination)  
Government Code Chapter 2251 (Prompt Payment)  
Government Code Chapter 2254 Subchapters A & B (Professional Services)  
Health & Safety Code §361.426 (Recycled Product Preferences)  
Local Government Code Chapter 262 Subchapter B (Public Works)  
Local Government Code Chapter 262 Subchapter C (Competitive Bids)  
Local Government Code Chapter 271 Subchapter A (Public Property Finance Act)  
Local Government Code Chapter 271 Subchapter B (Competitive Bidding on Public Works Contracts)  
Local Government Code Chapter 271 Subchapter C (Certificate of Obligation Act)  
Local Government Code Chapter 271 Subchapter D (State Cooperation in Local Purchasing Programs)  
Local Government Code Chapter 271 Subchapter F (Cooperative Purchasing Program)  
Local Government Code Chapter 271 Subchapter H (Alternative Project Delivery for Construction Projects)  
Local Government Code Chapter 140.003 (Specialized Local Entities)  
Texas Constitution Article 3 §44  
Texas Constitution Article 3 §51

# GUADALUPE COUNTY PURCHASING POLICY AND PROCEDURES

## ATTACHMENT "A"

### EMERGENCY PURCHASING PROCEDURES

The purpose of this section is to enable Guadalupe County to respond quickly in procuring materials and/or services when an emergency condition exists. In case of a disaster or an emergency, departments shall be authorized to purchase goods and services necessary to address the emergency.

#### NON-DISASTER – EMERGENCY

In the case of a non-disaster emergency, the department should call the Auditor's office on the next business day and the Auditor's office will (if funds are available) issue a purchase order after the fact. (Example: Building Maintenance Director has to call in a plumber on a Sunday to repair a leaking pipe).

#### DECLARED OR UNDECLARED DISASTER – EMERGENCY

##### Auditor's Office Operational

Purchases during a disaster, if possible, should follow existing purchasing procedures and should be categorically identified (example: Flood October 1998) by the department when requesting purchase orders. During a disaster, the Auditor's office will assist with procurement as needed by the department.

##### Auditor's Office NOT Operational

Upon the event that the Auditor's office is not operational during a disaster, departments are authorized to establish their own purchase orders for items necessary to address the emergency. During this period, the department should assign a person to monitor and track all purchases made during the period.

Purchase order numbers assigned by a department should start with their department number, 2-digit fiscal year and be sequentially numbered (Example: Sheriff's office 560-09-100). Information accumulated by the department should include:

- Date of purchase,
- Internal assigned PO number,
- Vendor name,
- Description of services/items,
- Personnel responsible, and
- Amount.

Depending on the type of incident and whether it is a federally declared disaster, other information (such as time and geographic location where the services were performed or items utilized) may also need to be collected to qualify for state or federal reimbursement.

The above information must be sent to the Auditor's office as soon as it is operational.

##### Major Purchases

By Texas State Law, the County Judge is the Emergency Management Director for the County. Any major purchases that exceed a department's budget **must be approved by the County Judge**.

Purchases that exceed the competitive bid limit **must be approved by the County Judge**. Any request, that exceeds the competitive bid limit must be ratified and acknowledged by the Commissioners Court after the fact at the soonest practical Commissioners Court meeting. Exemption from competitive bidding only applies if:

- (1) a prompt purchase is required, due to public calamity, to meet a necessity of the citizens or preserve public property,
- (2) the purchase is necessary to preserve the public health or safety of county residents, or
- (3) the purchase is required due to unforeseen damages to public property.