

LIBERTY COUNTY

PURCHASING POLICIES AND PROCEDURES MANUAL

Office of the Liberty County Purchasing Agent

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TABLE OF CONTENTS

Introduction	Page 3
Definition of Terms	Pages 4-8
Purchasing Authority and Laws	Pages 9-10
Purchasing Policy	Pages 11-12
Code of Ethics	Pages 13-14
Requisitioning Process	Pages 15-16
Specifications	Page 17
Procedures for Purchases under \$50,000	Page 18
Open Purchase Orders	Page 19
Competitive Bidding Procedures	Pages 20-23
Purchasing Professional Services	Page 24
Exemptions and Emergency Purchases	Pages 25-26
Sole Source Goods and Services	Page 26
Cooperative Purchasing	Page 27
State Purchasing Programs	Page 28
Historic Underutilized Business Policy (HUB)	Page 29
Minority and Women Owned Business Policy (MWBE)	Page 30
Vendor Registration and Vendor Relations	Page 31
Contracts and Contract Administration	Page 32
Inventory and Disposition of County Property	Pages 33-34
Debarment and Suspension	Pages 35-36
Evaluation Criteria for RFPs or RFQs	Page 37
Protest Procedures	Page 38-39
Federal and State Grants	Page 40
Labor Surplus Areas Business	Page 41

INTRODUCTION

This manual has been prepared by the Liberty County Purchasing Agent and adopted by the Liberty County Commissioners Court for the use of Liberty County employees and officials, and is designed to assist them in complying with the laws governing County purchasing procedures. Any changes in the contents of this manual shall be approved by Commissioners Court.

County purchasing procedures are governed by Chapter 262 of the Texas Local Government Code; and these statutes, including interpretations of them made by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the procedures described in this manual are based on state law, this manual contains language taken directly from statutes. If any policy or procedure in this manual is contradictory to Texas State Law then Texas State Law shall govern.

The mission of the Liberty County Purchasing Department is to procure goods and services in the most efficient and cost effective manner possible. This is accomplished by standardization, competitive bidding on the basis of adequate specifications, and cooperative purchasing; all in compliance with the Texas Local Government Code (LGC), other relevant laws and best business practices.

The County Purchasing Agent is charged with the responsibility of assuring fair and equitable treatment to all vendors without regard to political pressure or discrimination on the basis of race, color, religion, national origin, handicap, or sex.

It is the duty of this department to furnish supplies, equipment, and services to the various departments and elected officials in the required quality and quantity, at the best possible price.

These tasks are accomplished by standardization and competitive bidding on the basis of adequate specifications, whenever practicable.

The Purchasing Department is committed to promoting effective, professional, and consistent procurement in Liberty County, as well as supporting the public precept that tax dollars be wisely spent.

DEFINITIONS

Advertisement – A public legal notice put in a newspaper of general circulation containing information about an Invitation for Bid or a Request for Proposal.

Amendment – A document used to change the terms and/or conditions of a Solicitation.

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

Auditor – Liberty County Auditor and the designated representatives.

BAFO – Best and Final Offer

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

Bidders List – A database of vendors who have signified in writing an interest in submitting bids for particular categories of goods and services.

Bid Bond – A guarantee that promises the bid will not be withdrawn prior to contract award. Normally it is five percent (5%) of the highest amount bid and is in the form of a financial guarantee provided by a surety; however, it can be cashier's or certified checks, or U.S. currency. Bonds of unsuccessful bids are returned after award. Bond of a successful bidder is retained until the contract is executed and any necessary payment/performance bonds are submitted and accepted. If the successful bidder refuses to execute the contract or submit proper payment and performance bonds, then the bid bond is "called" for the difference between their bid and that of the next low responsive responsible bidder, up to the penal amount of 5% of the bond.

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

Commissioners Court – Liberty County Commissioners Court.

Commodity Code– The accounting classification of goods and services with a unique number assigned to each description. Used as a tracking mechanism for like goods and services.

Competitive Bidding – Letting available vendors compete with each other to provide goods/services.

Competitive Proposal Process – Letting available vendors compete with each other to provide goods/services in compliance with Texas Local Government Code Chapter 262. This process permits flexibility in product and negotiation in compliance with LGC Section 262.030 when price is not the only factor.

Component Purchases – Purchasing a series of component parts or goods that normally would have been purchased as a whole.

DEFINITIONS

Contract – A formal, written agreement executed by the County and a vendor, containing the terms and conditions under which goods/services are to be furnished to the County. A contract, when properly signed by the authorized County representatives, is a commitment for County funds when properly procured.

County – Liberty County, Texas.

County Attorney – Liberty County Attorney or the designated representatives.

County Clerk – Liberty County Clerk or the designated representatives.

Customers – The County departments.

Department – All County and precinct offices and subdivisions of them, as well as district offices including a specialized local entity as defined in LGC 140.003. (Criminal District Attorney, Juvenile Board, Juvenile Department and Community Supervision and Corrections Department.

Designee – Individual Purchasing Department employee given the authority, as an additional agent, to the Purchasing Agent to perform County business.

Disadvantaged Business Enterprise (DBE) – A business in which at least 51% ownership is represented by one or more persons who have been historically underutilized (socially disadvantaged) because of their identification as being African American, Hispanic American, Asian-Pacific American, Native American, or Women.

Emergency Purchase – A purchase that is needed because of an emergency condition as described in Texas Local Government Code Section 262.024(a)(1).

Employee – Any County or precinct elected official, appointed official, or employee or any district elected official, appointed official, or employee.

Formal Competitive Bidding – The bidding process, in compliance with Texas Local Government Code Section 262.023, which requires approval by the Commissioners Court.

Goods – Includes any personal property to be purchased by the County, including equipment, supplies, material, and component or repair parts.

Invitation for Bid or IFB – Specifications and formal bidding documents requesting pricing for a specified good/service that has been advertised for bid in a newspaper.

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

Lowest Responsible Bid – The offer from the responsible bidder who submits the lowest and best bid, meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It is expressly understood that the lowest responsible bid includes any related costs to the County in a total cost concept. The term “responsible” refers to the financial and practical ability

DEFINITIONS

of the bidder to perform the contract, and takes into consideration the past performance of the vendor.

Material Group – A means of classifying goods/services with a unique group number assigned to each description.

Modification – A document used to change the terms/conditions of a contract.

Negotiations - A consensual bargaining process in which the County and vendors attempt to reach agreement on differences in desired contract provisions or a potentially disputed matter for the purpose of reaching a mutually-acceptable agreement.

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

Payment Bond – A guarantee that promises payment to subcontractors and suppliers on a contract during performance. It must be submitted prior to any work. It is normally one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier's or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to pay subcontractors and suppliers, then the payment bond is "called" for the amount of non-payment.

Performance Bond – A guarantee that promises that the contract will be performed as required. It must be submitted prior to any work. Normally it is one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety, but can be cashier's or certified checks, or U.S. currency. It is normally maintained until expiration of any required warranty. If the contractor fails to perform and complete the contract as required, then the performance bond is "called" for the amount required to complete the contract. A surety that provides a bond may be permitted to "take over" a failed or defaulted contract.

Pre-Bid/Proposal Conference – A conference conducted by the Purchasing Department for the benefit of those wishing to submit a bid or proposal for services/supplies required by the County. This is held in order to allow bidders/proposers to ask questions about the proposed contract and particularly the contract specifications.

Professional Service - Services directly related to professional practices as defined by the Professional Services Procurement Act, including those services within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, and professional engineering.

Professional Services Procurement Act – As defined in Government Code 2254, there are three (3) kinds of professional Services specified and allowable in this act.

Prompt Payment Act – Texas Government Code 2251.021(B) TIME FOR PAYMENT BY GOVERNMENTAL ENTITY, states a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of: (1) the date the governmental entity receives the goods under the contract; (2) the date the performance of the

DEFINITIONS

services under the contract is completed; or (3) the date the governmental entity receives an invoice for the goods or services.

Proprietary Information – Information in bids or proposals to which the vendor claims ownership or exclusive rights and which is protected from disclosure under the Texas Public Information Act (Texas Local Government Code, Chapter 551).

Purchase Order – An order by the Purchasing Department for the purchase of goods/services written on the Liberty County standard Purchase Order form and, when accepted by the vendor without qualifications within the specified time limit, becomes a contract. It is the vendor's authority to deliver and invoice for goods/services specified, and the County's commitment to accept the goods/services for an agreed upon price.

Purchase Requisition – A request by a department to the Purchasing Department that authorizes Purchasing to enter into a contract with a vendor to purchase goods/services and charge the expenditure to the appropriate department budget. This form is for internal use and cannot be used by a department to order material directly from a vendor.

Purchasing – The act, function, and responsibility for the acquisition of goods/services, including construction and professional services.

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

Purchasing Agent – A person appointed by the Liberty County Purchasing Board to make procurements and contracts on behalf of the county and any other purpose authorized by law.

The purchasing agent for the County reports to the Purchasing Board.

Purchasing Board – A board comprised of two (2) District Judges and the County Judge who are responsible for appointing the Purchasing Agent and approving the department's budget.

Purchasing Department – Liberty County Purchasing Department and its staff.

Request for Services or RFS – A document that requests information about qualifications and details of service to be provided, and costs for services that the Commissioners Court orders exempt in compliance with Texas Local Government Code, Section 262.024(a)(4).

Request for Offer or RFO – A process for soliciting offers from three (3) catalog vendors authorized by the General Services Commission pursuant to Texas Government Code, Chapter 2157, and negotiating with them for the best value and purchase in the best interests of Liberty County.

Request for Proposal or RFP – A document requesting an offer be made by a vendor, which allows for negotiation after a proposal has been received, but before award of the contract for

DEFINITIONS

goods/services procured in compliance with Texas Local Government Code, Section 262.0295 or 262.030.

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

Sealed Bids – Competitive bids required to be advertised in a newspaper and submitted to the Purchasing Department in a sealed envelope that conceals price.

Separate Purchases – Purchases made in a series of separate purchases of goods/services that, in normal purchasing practices, would have been made in one purchase.

Sequential Purchases – Purchases made over a period of time that, in normal purchasing practices, would be made as one purchase.

Services – Includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal, or professional services.

Sole Source Good or Service – A good or service that can be obtained from only one source and is purchased in compliance with Texas Local Government Code, Section 262.024(a)(7).

Solicitation – A document—such as an invitation to bid, request for proposal, request for offers, or request for qualifications—issued by the Purchasing Department. This document contains terms and conditions for a contract, and it seeks (solicits) a bid or proposal for goods/services needed by the County.

Specifications – A concise description of a good or service that an entity 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, preparing an item for delivery, and preparation or installation for it to be used. The specification is the total description of the item to be purchased.

Vendor – One who sells something; a “seller.” A business entity or individual that seeks to have or has a contract to provide goods or services to the county.

PURCHASING AUTHORITY

PURCHASING LAWS

The Liberty County Purchasing Board has directed the Purchasing Agent to provide a centralized purchasing structure. It is the policy of Liberty County, acting through its duly appointed Purchasing Agent, to comply fully with all purchasing laws and amendments passed by the Texas State Legislature.

AUTHORITY

Liberty County adopts these policies and procedures under the authority of Texas Local Government Code, Chapter 262. The Liberty County Purchasing Agent operates under the authority of 262.011 of the Texas Local Government Code.

COUNTY PURCHASING ACT

The Purchasing Act applies to all departments: all district, county, precinct officials, employees and subdivisions of all district, county and precinct offices. The County Purchasing Act provides a general legal and procedural framework that emphasizes price (rather than total cost and value), openness, control, and accountability rather than efficiency. It is the duty of the county's chief procurement official to review and to recommend periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.

In Texas counties there are usually only two entities that have the authority to sign procurement documents: the Commissioners Court as a voting body only, and the County Purchasing Agent. The Liberty County Commissioners Court must approve all contracts exceeding the statutory limit and the purchasing agent must approve all contracts under the statutory limit. *Other officials typically do not have procurement authority unless specifically authorized by Commissioners Court under authority of the Purchasing Act or other government code.*

The Purchasing Act specifically states (Section 262.011(d)): "The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repair."

VIOLATION AND PENALTY

Any person who knowingly violates or authorizes the violation of the Purchasing Act, and any County or precinct employees failing to use the Purchasing Agent for purchases including an agent or employee of the County or of a department of the County commits a crime punishable by Chapter 262, Texas Local Government Code

PROFESSIONAL SERVICES PROCUREMENT ACT

Professional services are defined in the Professional Services Procurement Act as:

1. those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, or real estate appraiser or professional nursing as defined by the laws of the State of Texas;
2. those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, professional engineer, or state licensed real estate appraiser in connection with his professional employment or practice or a registered nurse.

The Act states that contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

To ensure vendors a fair and equal opportunity to do business with the county, and to ensure that the services of the most qualified professional are obtained, Commissioners Court should direct that professional services be procured using a Request for Qualifications (RFQ) process.

The county shall rank firms based on their qualifications and then enter into negotiations with the most qualified firm based on a fair and reasonable price. If the county is unable to negotiate a satisfactory contract with the most highly qualified vendor, negotiations will formally end with that person or firm. The next most highly qualified vendor will then be asked to negotiate. Negotiations are continued in this sequence until a contract is finalized.

If any contract is entered into with one of the above mentioned professionals on the basis of a competitive bid, it is contrary to state law and is void.

Additional PURCHASING LAWS that govern county purchasing include but are not limited to the following:

- Public Property Finance Act, (TEX. LOC. GOV'T CODE ANN., ch. 271, subch. B)
- Services and Products of Severely Disabled, (TEX. HUM. RES. CODE ANN., sec. 122.014)
- Interlocal Cooperation Agreement, (TEX. GOV'T CODE ANN., ch. 791)
- Prompt Payment Act, (TEX. GOV'T CODE ANN., ch. 2251)
- Bidders from other States and 5% Retainage, (TEX. GOV'T CODE ANN., ch. 2252)
- Public Works Performance and Payment Bonds, (TEX. GOV'T CODE ANN., ch. 2253)
- Wage Rate for Construction Projects, (TEX. REV. CIV. STAT. ANN., Art. 5159a)
- Sales tax exemption for incorporated purchases (TEX. TAX CODE ANN. § 151.131)
- Worker's Compensation Compliance (Workers Compensation Rule 110.110)
- Professional Services Procurement Act (TEX. GOV'T CODE ANN., ch. 2254)

Counties must also comply with a host of other procurement and financial requirements, including federal procurement requirements which flow through to states and localities receiving federal funds (grants).

PURCHASING POLICY

These policies and procedures are prepared by the Liberty County Purchasing Agent and approved by the Commissioners Court acting in its capacity as the governing body of Liberty County, Texas. Liberty County adopts these policies and procedures under the authority of Texas Local Government Code, Chapter 262. The Liberty County Purchasing Board has directed the Purchasing Agent to provide a centralized purchasing structure.

The County Purchasing Policy is to:

- Seek the best quality, lowest priced goods and services available that meet the needs and delivery requirements of Liberty County personnel;
- Provide all responsible vendors and contractors with equitable access to servicing the needs of Liberty County and its personnel through the competitive bidding of goods and services;
- Comply with all federal and state laws that apply to county purchasing and with the policies and procedures in this manual;
- Manage all county assets and inventory so that replacement costs are minimized and Liberty County can account for those assets;
- Dispose of all surplus, salvage, seized, and abandoned property in a manner that provides the most benefit to the taxpayers of the county and complies with the law;
- Conduct County purchasing in a manner that will promote and foster public confidence in the integrity of the county procurement process.
- Protect the interest of Liberty County taxpayers without regard to any undue influence or political pressure.

The Purchasing Agent must purchase or lease all goods and services, including maintenance and repair, for all departments.

In addition, the responsibilities of the Purchasing Agent shall be to:

1. Encourage and support compliance with Texas Purchasing Laws;
2. Work in conjunction with the Auditor and other county officials in the development of efficient financial processes;
3. Promote local business participation in Liberty County procurement processes; and
4. Provide the business community a central professional link to county business.

Any commitment to acquire goods or services without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for goods or services prior to securing a purchase order may be held personally responsible for the payment. All such purchases may be considered a *donation* to Liberty County. Employees must never purchase goods or services for their own personal benefit.

Departments must be cognizant of budget balances and refrain from trying to process requisitions in excess of their balances unless the proper transfer of funds has been accomplished. Purchase requisitions for which there is not adequate funding will not be processed.

Departments should plan purchases in order to keep emergency purchase requisitions to a minimum.

Departments must ensure that all employees involved in making departmental purchase requests have read and understand the procedures in this manual.

Each county department is responsible for receiving goods and services. Departments should make Purchasing aware of any shortage, late delivery, damaged merchandise, or any other problem relating to the vendor's performance.

Departments must provide the Purchasing Department ample time to process any purchase requests:

1. On all purchases that are less than \$50,000, departments should allow a one to two (1-2) week time frame.
2. On all purchases that are over \$50,000, departments should allow a four to six (4-6) week time frame.

The Purchasing Department is committed to processing all purchase requisitions within a reasonable time frame.

CODE OF ETHICS

Policy

It is the policy of Liberty County that the following ethical principles will govern the conduct of every employee involved directly or indirectly in the Liberty County procurement process.

Responsibility to County

Employees shall avoid any activities that would compromise or give the perception of compromising the best interest of Liberty County. Employees will not use confidential proprietary information for actual or anticipated personal gain.

Conflict of Interest

Employees will avoid any activity that would create a conflict between personal interests and the interest of Liberty County. Conflict exists in any relationship where an employee is not acting in the county's best interest and may be acting in their own best interests or the interests of someone associated with them.

Such conflicts of interest would include being involved in any procurement activity in which:

- The employee or any member of the employee's family has any financial interest pertaining to the Liberty County procurement process;
- A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the Liberty County procurement process; or
- Any other person, business, or organization with whom the employee or member of the employee's family is negotiating or has any arrangement concerning prospective employment.

If any such conflicts of interest exist, the employee will immediately notify the Purchasing Agent in writing and will remove himself/herself from the Liberty County procurement process.

Perception

Employees shall avoid any appearance of unethical or compromising practices in all relationships, actions, and communications associated with County purchases.

Gratuities

Employees shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual should disclose the transaction to the Purchasing Agent or County Attorney for interpretation.

Subcontractor(s)

It shall be a breach for any payment, gratuity or offer of employment to be made on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Liberty County, or any person associated therewith, as an inducement for the award of a subcontract to order.

Confidential Information

It shall be a breach of ethics for any employee or former employee of Liberty County knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any person.

Conflict of Interest Disclosure

State Law (Chapter 176 Local Government Code) requires the filing of Conflict of Interest Questionnaires by certain individuals and businesses.

The Questionnaires require disclosures describing certain business and gift giving relationships, if any, the filers may have with Commissioners Court members, the purchasing agent and other elected/appointed officials.

The Law applies to:

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

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

All Conflict of Interest Questionnaires must be filed with the Liberty County Clerk.

REQUISITIONING PROCESS

Statutes require counties to utilize a requisition system. Requisitioning is the formal request for a purchase to be made. It is the first step after the need for goods or services is recognized.

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

Purchase requisitions should fully describe to the Purchasing Department what to buy, when it is required, and where the goods are to be delivered, or the services to be performed. They should also include what account to use and the amount of money authorized to spend.

Purchase Authorization

Each department must furnish the Purchasing Agent with a list, if other than the elected or appointed official, of employees authorized to sign a requisition for purchase. It is the department's responsibility to ensure that all authorized personnel have read and understand the policies and procedures of this manual.

Policy

Liberty County utilizes a requisitioning system. Based on established budget line items, purchase requisitions are submitted to the Purchasing Department by the user department. Adequate budget funds must be available in the departmental line items or in operating expenses before the Purchasing Department can proceed with the purchase of the requested goods and services.

After the Purchasing Department receives a purchase requisition, it determines the appropriate procedures to be followed based on the cost of the purchase, the goods and services to be purchased, the existing contracts for goods and services, and other relevant factors.

Upon determining the appropriate procurement process, the Purchasing Agent or assigned representative acting on his/her behalf will issue a purchase order to the vendor(s) for the desired goods or services. The Purchasing Agent or assigned representative is the only individual authorized to generate a printed/electronic copy of a purchase order. No other County personnel will have access or authorization to print a purchase order.

Any capital assets not approved in the budget must go to Commissioners Court for approval.

Types of Requisitions

Routine – Normal purchases have a cycle time of three to ten (3-10) working days.

Expedited – Purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases do not qualify as emergency purchases and are subject to all applicable bidding requirements. Cycle time for expedited purchase requisitions is one to three (1-3) working days.

Note: Expedited purchases are NOT emergency purchases. They are goods or services needed quickly to prevent costly delays or work stoppage. These purchase requests should not be used unless absolutely necessary. The user department should always telephone the Purchasing Department to make them aware of any such problem.

Emergency – Purchase of any goods or services needed because of an emergency condition that the Commissioners Court has ordered exempt, in compliance with the County Purchasing Act [Texas Local Government Code, Section 262.024(a)(1)]. All emergency exemption orders must be processed through the Purchasing Department.

- 1) Emergency items less than \$50,000 will be handled in the same manner as an expedited purchase requisition.
- 2) Emergency items greater than \$50,000 must be placed on the Commissioners Court agenda.

When an emergency situation exists, the Purchasing Agent must be contacted to ensure compliance with the Purchasing Act. In a declaration of a local state of disaster, the County Judge would be the authority to approve purchases.

The only exceptions to automated purchase orders are the requests for payment processed directly by the Auditor's Office for the following goods or services:

- Utilities
- Employee reimbursement requests
- LEOSE expenditures
- Collections office refunds
- Rental deposit returns
- Commitments
- Court reporters and transcripts
- Attorney's vouchers
- Foster programs
- Specified court related expenditures
- Risk Management claims
- Purchases not required by statute to be processed by the Purchasing Agent

SPECIFICATIONS

A specification is a concise description of goods or services that an entity 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 any goods or services for delivery, or preparing or installing them for use.

Purpose

The purpose of any specification is to provide Purchasing with clear guidelines from which to purchase, and to provide vendors with firm criteria of a minimum standard acceptable for goods or services. A good specification should:

1. establish the minimum acceptability of the goods or services;
2. promote competitive bidding;
3. contain provisions for reasonable tests and inspections for acceptability of the goods or services; and
4. provide for an equitable award to the lowest and best bid from a responsible bidder.

Preparation of Specifications.

Specifications should be proposed by the user department or an outside agency. The final acceptance of specifications shall rest with the Purchasing Agent and Commissioners Court to ensure proper quality control and avoid conflicting specifications in the different departments. To avoid duplication of efforts and expedite the bid process, departments should submit their specifications electronically.

Below is a list of specification types that will be used by the Purchasing Department:

1. **Design** - A detailed description of goods or services, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients, and all other details needed for the provider to produce goods and services of minimum acceptability. Design specifications are usually required for construction projects, certain produced goods, and for many services.
2. **Performance** - A detailed description where the goods or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability, and recommended practices. This type of specification is used most often for capital equipment.
3. **Brand Name or Equal** - A detailed description that lists goods or services by brand name, model, and other identifying specifics. Products equal to the characteristics of the named brand are specified as acceptable. Usually the composition of a brand name good and service is provided through labeling, but broader tolerances and less consistency from item to item may be expected as compared with standard goods. Other manufacturers may provide a nearly identical good under their own brand name.
4. **Industry Standard** - All goods made to an industry standard are identical, regardless of manufacturer, and will result in acquisition of goods of uniform quality. An example is the UIL standard for electrical products.

PROCEDURES FOR PURCHASES UNDER \$50,000

For purchases of goods and services totaling less than \$50,000, as defined in §262.011(d) of the Texas Local Government Code, the Purchasing Agent is authorized to select the exact goods or services to meet the requirements of the departments. The Purchasing Agent is authorized to select the vendor and follow all necessary actions to conclude a purchase order for the purchase of the goods and services, without specific approval of the Commissioners Court.

The general practice of the county shall be to accept the lowest responsible bid or price quotation as specified and on *equal* product standards.

These regulations and procedures apply to all purchases less than \$50,000.00.

- A. From \$1.00 to \$1,000.00 – If the county is purchasing personal property costing at least \$1.00 but less than \$1,000.00 over a twelve (12) month period within the current tax year the county must solicit previously approved vendors and purchase from that vendor.
- B. From \$1,001.00 to \$10,000.00 – If the county is purchasing personal property costing at least \$1,001.00 but less than \$10,000.00 over a twelve (12) month period within the current tax year, the county must solicit vendors by phone, to supply the particular item(s). In the procurement of these item(s), the county must document price quoted from at least three (3) previously established vendors.
- C. From \$10,001.00 to \$49,999.00 – If the county is purchasing personal property costing at least \$10,001.00 but less than \$49,999.00 over a twelve (12) month period within the current tax year, the county must solicit vendors through written quotations, to supply the particular item(s). In the procurement of these item(s), the county must obtain written price quotations from at least three (3) previously established vendors.

If quality and delivery terms meet county needs, the vendor who provides the lowest price will be selected. If the vendor offering the lowest price is not used, a notation will be made to indicate the reason another vendor was selected.

The Purchasing Agent has the authority to deviate from the policy for purchases under \$50,000 when it is in the best interest of Liberty County and if it will facilitate specific County operations.

NOTE: If cumulative purchases for a single commodity code are anticipated to exceed \$50,000 in a fiscal year, then formal competitive bidding is required. Cumulative purchases include County wide purchases and are not limited to departmental requirements.

OPEN PURCHASE ORDERS

Open or blanket purchase orders are used for *contracted* recurring bid items such as asphalt or small on the spot purchases.

This policy applies to open purchase orders that do not exceed \$50,000.00 over a twelve (12) month period within the current tax year, unless the request is for items on bid contract.

Procedure to process open purchase orders:

- A. The requesting department should submit a requisition to the Purchasing Department for requested \$ amount.
- B. A purchase order will be issued if requisition is approved to the respective vendor.
- C. It is the responsibility of the requesting department to manage the amount available on the open purchase order. If the dollar amount listed is not enough, then the purchase order must be closed and the department should start this procedure over to request a new open purchase order. Departments should not spend more than the amount available on the purchase order at any time. Change orders will not be issued to increase open purchase orders.

The Purchasing Agent has the right to reject any open purchase order requests to ensure compliance with procurement laws. Departments that do not manage open purchase orders may be disqualified from utilizing this process.

COMPETITIVE BIDDING PROCEDURES

There are two primary types of solicited purchases - competitive bidding and competitive proposals. Competitive solicitation means letting available vendors compete with each other to provide goods or services. The requirements for these procedures are outlined in Section 262 of the Texas Local Government Code and Chapter 2269 of the Government Code and applies only to contracts for which payment will be made from current funds.

1. **Competitive sealed bidding** is a transparent procurement method 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 as well as the criteria by which the bids will be evaluated. Competitive bidding aims at obtaining goods and services at the lowest prices by stimulating competition, and by preventing favoritism. Competitive bids are not negotiated. With few exceptions, price is the sole determinant factor if the vendor's product or services meet the requirements of the specification.

The *IFB or Invitation for Bid* method is the most preferred method of procuring goods and supplies. It is used when the requirement can be definitively described, is readily available, and is an off-the-shelf kind of requirement.

2. **Competitive proposals.** The Texas Legislature added the ability for counties to utilize best value analysis for any type of procurement where price is not necessarily the most important factor and is determined to be in the best interest of the county. The Request for Proposal (RFP) method is used where the evaluation is made by established weighted evaluation factors. Request for Proposal procedures can be found in Texas Local Government Code Section 262.030. Any formal contract resulting from the RFP process must be reviewed by the County Attorney's Office and approved by the Commissioners Court.

While the competitive proposal (RFP) process is similar to the competitive bidding (IFB) process, there are notable differences. The primary difference is that the RFP results in a negotiated procurement. Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors must be specified in the RFP and considered in recommending the award.

Procedures

Formal competitive bidding calls for formal approval by the Commissioners Court due to a required expenditure in excess of \$50,000.

Notice to Purchasing Agent. A simple memo from the user department to the Purchasing Agent will serve as the initial notice of need to procure goods or services. Descriptions and/or specifications of the needs should be attached to the memo for clarity.

Bid Notice. After development of specifications and approval by Commissioners Court a notice of the proposed purchase will be published by the Purchasing Department as required in Section 262.025 of the Texas Local Government Code.

Pre-Bid Conference - Texas Local Government Code, section 262.0256 allows the Commissioners Court to require potential vendors to attend a mandatory pre-bid (pre-proposal) conference to discuss contract requirements and answer vendor questions.

The Purchasing Agent works with the user department to determine if a pre-bid (pre-proposal) conference is necessary and whether attendance is mandatory or optional. The Purchasing Office manages any pre-bid (pre-proposal) conference and requests that the user department make staff available to answer questions at the conference.

Receiving Competitive Sealed Bids: The below procedures will be followed when receiving competitive sealed bids in order to preclude any perception of favoritism or revealing bid prices or information.

1. Bids will be received by the Purchasing Agent and or designee in the Liberty County Purchasing Department.
2. Bids will be stamped with the time and date received. The “Date Stamp Clock” in the Purchasing Department will serve as the official time clock for the purpose of identifying the date and time bids were received in the Purchasing Department.
3. Bids received after the opening time will be returned unopened to the bidder with a letter from the Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
4. After bids are received, a secure place will be provided by the Purchasing Department for holding the bids until the opening date. The bids are to be received sealed and shall remain sealed until opened on the advertised date and time by the Purchasing Department in a public forum.
5. On occasion, bids that are received in the mail, or by some other independent carrier, may be inadvertently opened. If this situation occurs, another Purchasing Department staff member will be called immediately to act as a witness that the details of the bid, particularly the price, were not reviewed and that the bid was again sealed by an employee of the Purchasing Department.

Public Bid Opening:

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

RFP: The Purchasing Agent publicly opens and documents sealed proposals at the date, time, and place specified in the notice. Only the names of vendors submitting proposals are announced. Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information contained in them. Disclosure of all information obtained from a vendor is subject to the provisions of the Texas Public Information Act.

Bid Amendments: The commissioners court, by law, authorizes the Purchasing Agent to extend the bid opening date on the notice of an Invitation for Bids or Request for Proposals if an error is discovered or if the nature of the goods and services requires an extension. The Purchasing Agent may amend an IFB or RFP to clarify the original intent or to correct clerical errors if inquiries about the meaning of the IFB/RFP indicate the need for an amendment; if the changes are so insignificant that they are not likely to matter to the vendor in determining the price or the ability to respond; if there is no change to the quantity or delivery requirements; and if the amendment does not change the scope of the IFB/RFP. There should be at least three (3) days between the date of the amendment and the opening date specified in the legal advertisement.

Evaluations:

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

- ✓ The relative price, including the cost of repair and maintenance when heavy equipment is the subject of the bid or the cost of delivery and hauling when road construction is involved;
- ✓ The compliance of goods and services with specifications; and
- ✓ The vendor's past performance, the responsibility of the vendor, including the vendor's financial and practical ability to perform the contract.
- ✓ Liberty County will consider the vendor's safety record if the IFB states it is to be considered. This includes compliance with requirements for the safety of the environment.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bid must be documented. Commissioners Court either approves the recommendation or rejects all bids and authorizes the Purchasing Agent to re-bid the goods or services.

RFP: The Purchasing Office supervises the evaluation process performed by the user department or committee to ensure that the evaluation is conducted fairly and consistently and that the integrity of the process is maintained. The RFP must specify the relative importance of price and other evaluation factors including the relative weight of each factor. Evaluators only use these specified factors in evaluating the proposals. Purchasing staff leads the evaluation team. For high visibility or high dollar value procurements the Purchasing Agent may take committee recommendations to Commissioners Court to request approval to negotiate with top ranked firms.

Confidentiality Memorandum The Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to evaluation committee members for signature. The memorandum contains requirements to keep information confidential until the commissioners court approves an award. The evaluation committee members are expected to adhere to this memorandum during the competitive process. Proposal responses should not be reproduced and must be returned to the Purchasing Department at the completion of the evaluation phase.

RFP: The Purchasing Office supervises the evaluation/negotiation process or committee to ensure that the evaluation is conducted fairly and that the integrity of the process is maintained.

1. Evaluators from the department sign a confidentiality memorandum and send to the Purchasing Office
2. Evaluates response based on established evaluation criteria and formats
3. Completes evaluation and submits recommendation to Purchasing Office
4. Works with Purchasing Office to develop negotiation strategy (as applicable)
5. Participates as member of negotiating team to negotiate

Contracts: All formal contracts resulting from the IFB/RFP process must be reviewed by the County Attorney's Office and approved by the Commissioners Court.

PURCHASING PROFESSIONAL SERVICES

The two (2) principal laws with which the Purchasing Agent must comply when procuring professional services are the Professional Services Procurement Act and the County Purchasing Act.

There are two (2) kinds of professional services:

1. Those professional services specifically defined under the Professional Services Procurement Act; and
2. Those “other” professional services that are not specifically defined under either the Professional Services Procurement Act or the County Purchasing Act and which must be obtained in compliance with the County Purchasing Act. The Purchasing Agent must rely on court cases and Attorney General Opinions to determine what services are included in these “other” professional services.

Request for Qualifications (RFQ) - To ensure vendors a fair and equal opportunity to do business with Liberty County, and to ensure that the services of the most qualified professional are obtained; professional services should be purchased by using the Request for Qualifications (RFQ) process, unless otherwise exempted by Commissioners Court. Any exemption situations will be submitted to the Commissioners Court by the Purchasing Agent for approval. Contracts for the procurement of these professional services may not be awarded on the basis of bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

Procedures for the Request for Qualifications process will be followed as outlined in Chapter 2254 of the Texas Government Code.

Proposals are opened to avoid disclosure of contents to competing proposers and are kept secret during the process of negotiation. All proposals that have been submitted are available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information.

Confidentiality Memorandum - The Purchasing Office uses a confidentiality memorandum to ensure compliance with the ethics policy related to keeping proprietary information confidential. Before the evaluation of confidential proposals, the Purchasing Office sends a memorandum to evaluation committee members for signature. The memorandum contains requirements to keep information confidential until the Commissioners Court approves an award. The evaluation committee members are expected to adhere to this memorandum during the competitive process.

Evaluation and Negotiation - The Purchasing Office supervises the evaluation/negotiation process or committee to ensure that the evaluation is conducted fairly and that the integrity of the process is maintained.

If, as a result of an RFQ, Liberty County enters into contracts with more than one (1) qualified professional so that there are several professionals under contract to provide services as needed, thereby creating a pool of professionals, then the user department must ensure that an RFQ is distributed at least once every four (4) years to allow newly qualified professionals to be added to the pool.

EXEMPTIONS AND EMERGENCY PURCHASES

Goods and services can be exempt from competitive procurement process if the Commissioners Court orders the purchase exempt. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants. The following is a list of these circumstances:

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;
- (2) an item necessary to preserve or protect the public health or safety of the residents of the county;
- (3) an item necessary because of unforeseen damage to public property;
- (4) a personal or professional service;
- (5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;
- (6) any land or right-of-way;
- (7) an item that can be obtained from only one source, including:
 - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;
 - (B) films, manuscripts, or books;
 - (C) electric power, gas, water, and other utility services; and
 - (D) captive replacement parts or components for equipment;
- (8) an item of food;
- (9) personal property sold:
 - (A) at an auction by a state licensed auctioneer;
 - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
 - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;
- (10) any work performed under a contract for community and economic development made by a county under Section [381.004](#); or
- (11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section [262.023](#) if the Commissioners Court by order grants the exemption and if:

- (1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;
- (2) the renewal or extension does not exceed one year; and
- (3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the Commissioners Court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the Commissioners Court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

Poor planning does not constitute an emergency purchase. Work stoppage also does not necessarily constitute an emergency purchase; these situations will be reviewed case by case and handled appropriately.

SOLE SOURCE GOODS AND SERVICES

Sole source goods and services require a statement from the Purchasing Agent as to the existence of only one source, and specifically noting which type of listed sole source good or service is being purchased. The statement will be submitted for consideration and approval by the Commissioners Court and must be reflected on the agenda of the meeting of the Commissioners Court. Sole source purchasing and procedures are outlined in Section 262.024 of the Texas Local Government Code.

COOPERATIVE PURCHASING

A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization (§271.102).

A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will

1. Designate a person to act in all matters relating to the program;
2. Make payments provided in the agreement;
3. Be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery.

A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for purchase of goods or services.

STATE PURCHASING PROGRAMS

There are three types of purchasing programs that allow local governments to purchase goods and services using contracts previously awarded by the State of Texas or other governments.

1. ***State Term Contracts*** (authorized by sections 271.081 through 271.083 of the Texas Local Government Code). The County may purchase from vendors on the same terms and conditions as the State. The State has entered into term contracts after using competitive bidding procedures. The TPASS manages this program for the State.
2. ***Texas Multiple Award Schedule (TXMAS)*** (authorized by section 2155.502 of the Texas Government Code). The County may purchase goods and services from a schedule of multiple award contracts developed by the TPASS. The schedule is adapted from General Services Administration (GSA) Federal Supply Service contracts. TXMAS contracts take advantage of the most favored customer (MFC) pricing and under certain circumstances; the County may negotiate a lower price for the goods or services offered on a scheduled contract.
3. ***Department of Information Resources (DIR)*** – (authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code). The County may purchase computer-related equipment through the DIR and its contracted vendors. The Purchasing Agent acts for Liberty County in all matters related to purchase of goods and services from a vendor under any contract based on any State Purchasing program. Liberty County is responsible for making payments directly to these vendors.

County departments must submit a requisition and retrieve a purchase order from the Purchasing Agent before any goods are delivered or services are rendered by the above State Purchasing Programs.

Historically Underutilized Business Policy (HUB)

Tex. Gov. Code Chapter 2161

Historically Underutilized businesses (HUBs) – also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his or her identification as a member of certain groups, including women, Black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans and American Indians.

Certified HUBs – includes business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies as recognized by Liberty County.

Liberty County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the county's procurement processes. It is the policy of Liberty County to involve qualified historically underutilized businesses to the greatest extent feasible in the county's procurement processes. The county, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Liberty County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all businesses regardless of size, economic, social or ethnic status.

HUB Goals – The Liberty County Commissioners Court may establish HUB goals in compliance with State and Federal Law. *It is not the intent of this policy to require the Liberty County Commissioners Court to award a contract to other than the lowest possible bidder or best value bidder as required by law.* Any HUB Goals should consider the diversity of Liberty County's population and the availability of HUB firms within the specific category of goods or services to be procured.

The Liberty County Purchasing Department shall serve as the county's HUB Office. Liberty County will encourage HUB vendors to participate in all facets of the procurement process.

MWBE POLICY
(Minority and Women owned Business Entrepreneurs)

Liberty County is wholly committed to developing, establishing, maintaining, and enhancing minority and women owned business involvement in the total procurement process. It is the policy of Liberty County to involve qualified minority/women-owned businesses to the greatest extent feasible in the county's procurement of goods, equipment, services and construction projects. The county, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Liberty County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Liberty County.

VENDOR REGISTRATION

It is Liberty County's Policy that all vendors interested in doing business with the county *must* first register with the Liberty County Purchasing Agent or designee prior to contacting/meeting with any elected official, department head or employee of Liberty County. Vendor Registration can be done through utilization of the county's website and/or contacting the Liberty County Purchasing Department directly.

VENDOR RELATIONS AND POLICY

It is Liberty County's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in all of our dealings. At all times, applicable laws must be scrupulously observed. In this regard, caution should be observed when dealing with suppliers and/or their representatives to:

- A. Accord prompt and courteous reception, as well as fair and equal treatment, to all suppliers and their representatives,
- B. Provide equal opportunity for all suppliers to offer price quotes and products,
- C. Guarantee the confidentiality of all price quotations made by vendors,
- D. Explain as clearly and fully as possible to suppliers the reason for any rejection of prices and/or quotes provided,
- E. Remain scrupulously free from obligations to any supplier,
- F. Keep informed about sources of supply, current methods, services, and material; encourage their testing of new product samples,
- G. If, for any reason, one vendor is permitted to re-quote, his competitors will be given the same opportunity. Re-quoting should be restricted to an absolute minimum.

The Purchasing Agent and Purchasing Department personnel deal with vendors on a continuous basis. It is important that information be recorded about specific performance of all vendors.

The Purchasing Department welcomes any useful and constructive evaluations from departments. This information will be useful for the Purchasing Department to monitor and effectively stimulate vendor activities and performance. The Vendor Performance Evaluation form is available in the Purchasing Department.

Vendor Owing Taxes: Pursuant to Texas LGC 262.0276, Liberty County adopts a policy which requires that vendor's taxes be current as of the date bids/proposals are due. Bidders with delinquent taxes on the due date will not be eligible for award. Whether or not a vendor's taxes are delinquent will be determined by an independent review of the Tax Office records. Additionally, if during the performance of a contract, a vendor's taxes become delinquent, Liberty County reserves the right to provide notice to the Auditor pursuant to Texas LGC 154.045.

CONTRACTS AND CONTRACT ADMINISTRATION

The user department will be responsible for monitoring and documenting contractor performance/compliance. All documentation of non-compliance must be shared with Purchasing. Documentation related to clarification of expected performance standards that are complied with after problem notification, need not be provided to the Purchasing Department. If poor performance or non-compliance with the contract is evidenced, Purchasing will be responsible to initiate corrective action with the vendor.

The Purchasing Agent will take all steps related to obtaining compliance with the contract, but will consult the County Attorney's Office before taking any steps toward suppression or termination of the contract. Before any letter, notices, or other communication related to termination or suspension are sent to the contractor, the contents of these should be reviewed by the County Attorney's Office as the initial steps toward potential litigation. The Purchasing Agent shall be responsible to review contracts to ensure procurement compliance and negotiation terms only. All other contract language and its correctness including contract preparation is not the responsibility of the Purchasing Agent

Contract Modifications

It is the policy of Liberty County that change orders be processed through the Purchasing Department in accordance with requisition procedures. The total contract price may not be increased unless the cost of the change can be paid from current and available funds. **All contract modifications and change orders must be approved by the Liberty County Commissioners Court.**

Certificate of Interested Parties (Form 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a government entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the government entity. The disclosure of interested parties will be submitted online via Form 1295 through the Texas Ethics Commission website and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

1. When an apparent Awardee has been identified, Purchasing must contact them immediately and request Form 1295. Awardee must return completed, notarized form, to Purchasing within 10 days of request.
2. Unsuccessful bidders are not required to complete Form 1295.
3. The Awardee must place the Liberty County Contract Number on Form 1295, in line #3.
4. Within 30 days of the award Purchasing must acknowledge on the TEC website, the receipt of the correctly completed Form 1295.
5. Renewals are also part of this process. Each renewal, change order, contract alteration, modification, etc. will require a new form from the Vendor.

The Purchasing Agent will not be responsible to retrieve Vendor Form 1295 for any contracts, renewals, or leases that were not processed through the Purchasing Office.

INVENTORY & DISPOSITION

Per Texas Local Government Code Sec. 262.011(i), "On July 1, of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all the property on hand and belonging to the county and each subdivision, officer, and employee of the County".

When departments sustain loss or damage to goods, equipment or buildings, any funding for the replacement or repair is coordinated with the Purchasing Department, the actual purchase or repair is processed by the Purchasing Department and if necessary has court approval. Additionally, an Inventory Form is completed and sent to the Purchasing Department for the inventory file updates, if applicable.

The Liberty County Purchasing Department is responsible for county inventory. All county purchased items and equipment that cost \$500.00 or more must be tagged with an approved county tag number for asset controls. The Purchasing Department will tag property, enter information including but not limited to cost, make, model, serial number, and VIN number.

All county property, regardless of the value, should be safeguarded by Elected Officials, Department Heads and employees. All county property disposed should take place only after consultation and approval of the Purchasing Department for assurance the appropriate statutes disposal procedures and internal controls are maintained.

§ 263.152. Disposition: The Commissioners Court of a county may periodically sell the county's surplus or salvage property by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the county that is selling the surplus or salvage property;

When property is determined to be surplus/salvage, is no longer needed, is in unusable or unsafe condition, it shall be disposed of as outlined below.

Items purchased by federal funds or grant funds shall be handled in accordance with their respective regulations.

The originating department must follow the following procedure:

- A. Originator must complete and sign a Liberty County Inventory Form and send original form to the Purchasing Department for processing.
- B. Purchasing Agent or designee will inspect the property and will make a determination on the condition of the surplus property.
- C. On the recommendation of the Purchasing Agent, the Commissioners Court, by approval, may declare the property surplus and no longer needed by the county and authorize disposal of the property.
- D. Disposal will be as follows:
 1. Inventory tags will be removed (by Purchasing prior to auction) and a list will be given to the County Auditor.

2. Property will be turned over to an approved auctioneer. The auctioneer will be responsible for following established State of Texas law for the advertisement, soliciting and bidding of property.
 3. Auctioneer will auction the property after publication, as per law.
- E. All sales will be handled by the giving of a check or cashier's check. All receipts and proceeds will be given to the County Treasurer for appropriate deposit to Liberty County Accounts.
- F. Trade-Ins, items that are beyond repair, no longer of use, or surplus may be traded-in on more useful like items, with approval of Commissioners Court.

In all cases where property is declared surplus, property shall be removed from county inventory by the Purchasing Department. Since title to all personal property is vested to Liberty County, no property may be sold, traded, or disposed of without Commissioners Court action, with the following exceptions:

- Scrap building materials,
- Parts of equipment that cannot be used or identified. In such cases, the Purchasing Agent shall inspect the personal property and declare them scrap, making a written notation for the record of the nature of the item(s), the reason for scrapping, and the date of disposal. Such records shall be kept for at least three years.

Relocation of Furniture and Equipment

The moving of county inventory must be coordinated with the Purchasing Department. Each department must complete a Liberty County Inventory Transfer Request Form and submit the original form to the Purchasing Department for processing. The Purchasing Department will review the items requested to be re-located and will contact departments to verify a time and date for said items to be moved within two weeks from the original date of request. (Please note Purchasing has to get aid from other departments to have furniture re-located)

The Purchasing Department is not responsible for re-location of furniture, nor the assembly or the disassembly of furniture..

All requests to move computer equipment and/or peripherals must be approved and coordinated by the IT Department.

DEBARMENT AND SUSPENSION

In an effort to provide assurance to the Federal Government that the State of Texas and its sub-recipients comply with Federal Executive Order 12549, 44 CFR § 13.35 (“Sub-awards to debarred and suspended parties”), and the Texas Uniform Grant Management System (UGMS), the Texas Department of Public Safety/Texas Homeland Security-State Administrative Agency requires all Homeland Security Grant Program sub-recipients (to include all programs administered by the TXDPS/THS-SAA) check the debarment status of all vendors before contracting with or making any purchases with funds from any federal grant.

The Excluded Parties Listing Systems (EPLS) is an electronic database of parties excluded from federal procurement and non-procurement programs and is located at <https://www.SAM.Gov>. The EPLS identifies those parties excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and nonfinancial assistance and benefits.

AUTHORITY

Executive Order 12549 – Debarment and Suspension

POLICY

Prior to procuring or entering into contract(s) for any goods/services, the sub-recipient must check debarment status of the vendor using the EPLS system (<https://www.SAM.Gov>) and document that verification has occurred. This policy applies to the procurement of all goods or services regardless of unit price or quantity.

All purchases with grant Funds shall comply with the rules, standards, or procedures as required by the granting agency. These requirements will include but is not limited to adherence to Uniform Grant Management Standards, Code of Federal Regulations, Single Audit Act, Texas Homeland Security State Administrative Information Bulletins and any other applicable regulations specific to any and all grant funding awarded to Liberty County.

Purchases requested from grant funds must include the following information on the requisition from the requesting department:

- ✓ Grant Name & Fund Number
- ✓ Vendor Debarment Information
- ✓ Verifiable documentation for all purchases approved by the Commissioners Court

The Purchasing Agent and or designee should seek approval from the County Grant Administrator prior to authorizing any purchases from grant funds.

OFFICIAL REPRESENTATIVE

The County Purchasing Agent or designee shall verify the debarment status of all vendors prior to utilizing Homeland Security Grant Funds, using the EPLS system ([SAM.gov](https://www.SAM.gov)).

PROCEDURE

- Go to the EPLS Website (<https://www.SAM.Gov>).
- The County Purchaser or their agent will search the EPLS system for the vendor.
- If the vendor is found to be debarred, the vendor may not be used for procurements utilizing Homeland Security Grant Funds.

- If the vendor is found not to be debarred, print the screen page and retain with the procurement documentation.
- A copy of the screen print indicating the vendor is not debarred, at the time of the procurement, must be included with the supporting documentation submitted to the Texas Homeland Security State Administrative Agency requesting reimbursement or advance.

SAA Monitoring

During monitoring and reviews, sub-recipients must be able to provide proof of a written policy requiring verification of debarment status. Records of vendors verified should be retained for audit purposes (maintain a copy of the screen print verification from the EPLS website) throughout the record retention period for the particular grant.

EVALUATION CRITERIA FOR RFPs AND RFQs

All proposals will be examined by an evaluation committee consisting of members of Liberty County and possibly other consultants.

An award will be made to the responsible proposer whose proposal is determined to be the best evaluated offer demonstrating the best ability to fulfill the requirements set forth in the RFP or RFQ.

The requested services will be awarded primarily based on the evaluation criteria listed below as well as complying with any other provisions deemed necessary by the evaluation committee:

- Qualifications
- Experience
- Performance and capacity of the firm or individual
- Scheduling requirements
- References
- Professional qualifications

Each of the criteria will be assigned a point range to be used in scoring the proposals.

The submitted proposals are reviewed in accordance with their compliance with the RFP requirements as outlined in the RFP. All proposals must remain confidential during the review process. The interview/presentation is the second stage of the process. It is not mandatory.

In determining and evaluating the best qualification, the pricing may not necessarily be controlling, but quality, equality, efficiency, utility, general terms, delivery, suitability of the service offered, and the reputation of the service in general use will also be considered with any other relevant items. The Commissioners Court shall be the sole judge in the determination of these matters.

All records of the evaluation process will be maintained in accordance with Federal regulations.

PROTEST PROCEDURES

Any actual or prospective qualifier who is allegedly aggrieved in connection with the solicitation of an RFQ or RFP or the award of a contract resulting therefrom may protest. The protest will be submitted in writing to the Purchasing Agent with seven (7) calendar days after such aggrieved person knows of or should have known of the facts giving rise thereto. If the protest is not resolved by mutual agreement, the Purchasing Agent will promptly issue a decision in writing to the protestant. If the protestant wishes to appeal the decision rendered by the Purchasing Agent, such appeal must be made to Commissioners Court through the Purchasing Agent. The decision of Commissioners Court will be final. Commissioners Court need not consider protests unless this procedure is followed.

The following parties can file a protest if they are aggrieved with the solicitation or award and can prove that they will be adversely affected if the County proceeds with the solicitation or award:

- A Bidder
- A Prospective Bidder
- An Offeror
- A Prospective Offeror
- A Prospective Contractor

Protests must be filed with the Purchasing Agent.

The protest must include the grounds upon which the Protesting Party is asserting that the solicitation was improper and any documentation that the Protesting Party deems relevant.

When the Protesting Party is a bidder or offeror or a prospective contractor the written protest must be filed with the Purchasing Agent within seven (7) days after the Protesting Party knew or should have known of the facts giving rise to the protest.

When the Protesting Party is a prospective bidder or prospective offeror, the written protest must be filed with the Purchasing Agent prior to the bid opening time or the proposal receipt date. A bidder who submitted a bid or an offeror who submitted a proposal is not considered "prospective."

Immediately upon receipt of the protest, all activity in regard to the solicitation or the award must be suspended. The County is not required to suspend the solicitation or award if the Purchasing Agent makes a written determination that; the protest is clearly without merit or award of the contract without delay is necessary to protect the substantial interests of the County.

If the protest is filed with the Purchasing Agent in a timely manner, the Purchasing Agent has seven (7) business days to:

- Find that the protest may have merit;
- Find that the protest is clearly correct;
- Find that the protest is clearly without merit; or
- Find that award without delay is necessary.

The Purchasing Agent must submit, within seven (7) days, a response to the protest, including any documents or information he deems relevant to the protest, to the Protesting Party.

The Protesting Party may file a response to the Purchasing Agent's response within ten (10) days of the date of the response. The Purchasing Agent must, within ten (10) days of the filing of the protest, issue a written determination stating the reasons for his decision.

The written determination is the final order of the Purchasing Agent.

If the protest is denied, a letter is sent to the Protesting Party denying the protest based upon findings and application of law.

The Protesting Party has fifteen (15) days from the mailing date to appeal the decision in Commissioners Court. The Commissioners Court, in conjunction with the County Attorney, will make the final decision regarding the protest.

The formal written protest shall contain the following:

- County bid or proposal identification number and title,
- Name and address of the affected party, and the title or position of the person submitting the protest,
- A statement of disputed issues of material fact,
- A concise statement of the facts alleged, and of the rules, regulations, statutes, or constitutional provisions, which entitle the affected party to relief,
- All information, documents, other materials, calculations, and any statutory or case law authority in support of the grounds for the protest,
- A statement indicating the relief sought by the affected (protesting) party,
- Any other relevant information that the affected party deems to be material to the protest.

FEDERAL AND STATE GRANTS

Liberty County follows procurement procedures for grants which reflect applicable state and local laws and regulations as long as those laws and regulations align with federal law.

For each grant awarded to Liberty County, the County strives to ensure the following:

- An effective tracking system is initiated by routing all approved grants through the Grant Director and the County Auditor
- Appropriate budgetary and accounting controls are in place to separately identify grant transactions
- Appropriate administrative controls are in place to ensure that costs claimed are in compliance with appropriate grant requirements

County officials are responsible for compliance with all aspects of grant requirements including monitoring to ensure that grant activities are properly accomplished, grant accounting and tracking, and ensuring that requests for reimbursement are accurate and submitted on schedule or as soon as possible after completion of grant activities.

The Grant Director is responsible for reviewing all information submitted for financial accuracy, authorizing purchases, and authorizing reimbursement requests.

The Grant Director must coordinate any potential purchases with the Purchasing Agent. The Purchasing Agent shall ensure that all supplies, equipment and services are acquired in accordance with Liberty County purchasing procedures, to include other acquisition methods as interlocal, intergovernmental or cooperative purchasing agreements. The Purchasing Agent shall assign a Liberty County purchase order number for tracking through the financial management system.

Unnecessary and duplicative items

All bids and proposals will be reviewed to ensure that they contain no unnecessary or duplicative items. When the award recommendation is made to Commissioners Court, the written recommendation will state that the bid has been reviewed for such items.

All grant funds will be received by the County Treasurer and recorded by the County Auditor.

LABOR SURPLUS AREAS BUSINESSES

Liberty County is wholly committed to developing, establishing, maintaining and enhancing Labor Surplus Areas business involvement in the total procurement process. It is the policy of Liberty County to involve qualified Labor Surplus Area businesses to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects. The County, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Liberty County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Liberty County.



LIBERTY COUNTY

FEDERAL AND STATE AWARDS PROCUREMENT POLICIES

The County of Liberty follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.

FEDERAL POLICY

§200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

§200.318 General procurement standards.

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal

value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-

Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its

intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

§200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) Micro-purchases—(i) Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) Micro-purchase thresholds. The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must

include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) Small purchases—(i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) Simplified acquisition thresholds. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value

of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.324 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.325 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative,

contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements

do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323*

(K) See § 200.216**

(L) See § 200.322***

IMPLEMENTATION PROCEDURES

Procurement Cycle Steps

Need Defined—Liberty County department overseen by Department Head submits request and specifications. Purchaser reviews request and specifications for unnecessary or duplicative items in accordance with 2 CFR 200.318 (d).

Procurement Method Selected—Based on type and estimated cost of good/service as well as purchasing authority, purchaser determines the procurement method that will result in a best value acquisition for Liberty County.

1. All procurement transactions will be conducted in a manner providing full and open competition.
 - a. No unreasonable requirements are placed on firms in order for them to qualify.
 - b. No unnecessary experience or excessive bonding required.
 - c. Noncompetitive pricing practices between firms or between affiliated companies is disallowed.
 - d. Noncompetitive contracts are disallowed except for when there is an approved exception
 - e. No organizational conflicts of interest
 - f. If a “brand name” product is specified, an equal or like product is acceptable.
 - g. A vendor that intends to respond to the Request for Proposals, Request for Qualifications and/or Invitation for Bid may not participate in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including, but not limited to, the development of the scoring criteria, the final selection of firms to be contacted, or the scoring of proposals.
2. All procurement transactions shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
3. All procurement transactions will include review potential for entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services to foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government
4. All procurement transactions will include review potential for the use of Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
5. All procurement transactions will include review the use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions
6. All procurement transactions will include reviewing the manner for determining that no other contract other than time and materials type contract is suitable, and include a price ceiling that if exceeded, the contractor exceeds at their own risk.
7. All procurement transactions will consider the responsibility, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.
8. All procurement transactions shall identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals
9. If the Liberty County uses a prequalified list when acquiring goods or services, the Liberty County will ensure the list is updated regularly, provides enough qualified sources to ensure maximum open and free competition.
10. All procurement transactions must conform to applicable local, state, and federal laws and regulations.

Contract Cost and Price - A cost or price analysis must be conducted in connection with every procurement action more than the federal Simplified Acquisition Threshold including contract modifications (2 CFR 200.324).

The simplified acquisition threshold for federal procurement actions is currently set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 as \$150,000, but this threshold is periodically adjusted for inflation.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, an independent estimate must be made before receiving bids or proposals. 2 C.F.R. § 200.324(a).

Cost analysis is the evaluation of the separate elements (e.g., labor, materials, etc.) that make up a contractor's total cost proposal or price (for both new contracts and modifications) to determine if they are allowable, directly related to the requirement and ultimately, reasonable.

Price analysis is essentially price comparison. It is the evaluation of a proposed price (i.e., lump sum) without analyzing any of the separate cost elements of which it is composed.

Solicitation— Liberty County Purchasing create the appropriate solicitation document, with terms and conditions and evaluation criteria clearly defined, and notifies vendor sources for an informal or formal bid process.

Those closely involved in the establishment of the written selection criteria and selection shall have no potential conflicts of interest with any of the individuals, firms, or agencies under review (e.g., family relationships, close friendships, business dealings). Any person who might potentially receive benefits from grant-assisted activities may not participate in the decision-making process. Nepotism and conflict of interest regulations can be found in the Texas Government Code Chapter 573, Texas Local Government Code Chapter 171, and 2 CFR 200.318(c)(1).

Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate. If the awarded vendor is a prime contractor and may use subcontractors, the following affirmative steps are required of the prime contractor:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Receipt of Bids and Responses to Solicitation—Vendors submit their response to the solicitation.

Evaluation and Awards— Liberty County Selection Team reviews the responses from vendors, determines compliance with the solicitation and makes an award recommendation based on the pre-defined best value criteria.

Negotiation of Profit - Federal Guidelines require negotiations of profit as a separate element of the price for each contract and modification in which there is no price competition and in all cases where cost analysis must be performed. 2 C.F.R. § 200.324(b)

Contracting - Liberty County Purchasing overseen by The Purchasing Agent ensures all vendor contracts conform to Federal and State requirements including incorporating Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Contracts will also identify the responsibility, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

Contract Oversight - Liberty County Purchasing overseen by The Purchasing Agent ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders based on the scope of work defined in the Solicitation when reviewing deliverables from the contractors.

Record Documentation - Liberty County Purchasing overseen by The Purchasing Agent will maintain records documenting the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

METHODS OF PROCUREMENT

Liberty county will use one of the following five methods of procurement described at 2 CFR Section 200.320: (1) procurement by micro-purchases, (2) procurement by small purchase procedures, (3) procurement by sealed bids, (4) procurement by competitive proposals, or (5) procurement by noncompetitive proposals.

1. **Simplified Acquisition Procedures for Purchases Below Micro-Purchase Threshold**
For purposes of this section, the micro-purchase threshold is \$3,000.

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, Liberty County must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

2. **Small Purchase**

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than the lesser of the Federal Simplified Acquisition Threshold or the \$50,000 threshold defined in state law (Local Government Code §262.003 for counties and §252.021 for municipalities). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

For service contracts that are under the small purchase threshold and do not fall under professional services as defined in Section 2254.002(2) of Local Government Code, the Liberty County may receive quotes and award the contract to any reasonable and responsible bidder. The local governing body has the final authority to award contracts.

3. **Construction and Materials Contracts**

In order for sealed bidding to be feasible, the following conditions should be present:

- a. A complete, adequate, and realistic specification or purchase description is available;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

4. **Professional Services Contracts**

This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The Liberty County must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- e. The Liberty County may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

5. **Noncompetitive Proposals**

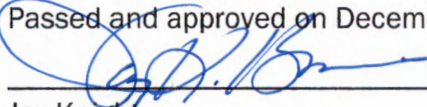
This method may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request; or
- d. After solicitation of a number of sources, competition is determined inadequate.

These Policies and Procedures are implemented through Liberty County's Purchasing Department consisting of:

Purchasing Agent
Assistant Purchasing Agent
Purchasing Clerk

Passed and approved on December 21, 2021



Jay Knight
Liberty County Judge