

Welcome to County Procurement

County Purchasing Act
Other Procurement Laws
Basic Public Purchasing

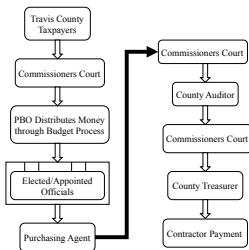
Training for County Judges and Commissioners
January 2013



Ms. Cyd V. Grimes has been the Purchasing Agent for Travis County since 1992. Ms. Grimes oversees all procurement processes for commodities, professional services, and construction. Her Office is also responsible for managing the County's Historically Underutilized Business (HUB) Program and accounting for and disposing of all County property. Ms. Grimes is a Past President of the Texas County Purchasing Association (TCPA) and served as the Legislative Chair for TCPA. She is currently Co-Legislative Chair for the newly formed Texas Public Purchasing Association (TxPPA). Ms. Grimes currently serves on the Committee for the Achievement of Excellence in Procurement Award® established by the National Purchasing Institute (NPI). Additionally, she serves on the Board of the Texas Association of School Boards, Local Government Purchasing Cooperative. She holds a Bachelor of Business Administration degree from Stephen F. Austin State University and is a Certified Purchasing Manager and Certified Public Procurement Officer.

First female and the longest tenured purchasing agent in the county's history.

Flow of Required Authorization for County Expenditures for Goods/Services



Mission

The mission of the Travis County Purchasing Office is to:

- Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to county purchasing;
- Provide equal access to all vendors, including HUBs, participating through competitive acquisition of goods and services;
- Provide an ongoing supply of quality goods and services to all County offices
- Account for all County assets through an effective fixed asset management system; and
- Protect the interests of Travis County taxpayers without regard to any undue influence or political pressures.

What the Law Requires

- State law requires that public entities:
 - have specific legal authority to make the purchase (Cannot spend unless budgeted)
 - meet the requirements of specialized purchasing statutes (Cannot pay if purchase was not according to law)
 - meet certain budget & finance restrictions (Auditor must verify availability of funds via a requisition (pre-encumber) for contract to be enforceable)

Commissioners Court Agent

- Only the Commissioners Court and County Purchasing Agent (with few exceptions) has the authority to contract for the county.
- In Travis County the Purchasing Agent is appointed by a Purchasing Board (3 District Judges, 2 County Commissioners) as authorized in LGC 262.011.
- The Board has authority to set the Purchasing Agents budget and salary.

Competitive Procedures

- Chapt. 262.0225 - Competitive Procedures
All bidders shall have the opportunity to:
 - 1) bid on the same items
 - 2) on equal terms
 - 3) have bids judged by the same standards as set forth in the specifications
 - 4) bids and proposals will be received in a fair and confidential manner
 - 5) bids or proposals may be submitted in hard-copy format or through electronic transmission

Basic Purchasing Law

- Chapt. 262.023 – Competitive Requirements for Certain Purchases
 - (a) Before a county may purchase one or more items under a contract that exceeds \$50,000 the Court must:
 - (1) comply with competitive bidding or competitive proposal procedures
 - (2) Use the reverse auction procedures (GC 2155.062(d)
 - (3) Comply with a method in Subchapter H, Chapter 271
 - (c) Separate, sequential, or component purchases to avoid the law not allowed
- Chapt. 262.0235 Procedures for Electronic Bids or Proposal
Before receiving electronic bids or proposals, the Purchasing Agent shall adopt rules to ensure the security and confidentiality of them.
- Chapt. 262.024 – Discretionary Exemptions
 - (a) Specific items may be exempt from competitive bidding if the Commissioners' Court by order grants exemption

Exemptions to Competitive Bidding

- 262.024
- 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;
 - 7) An item that can be obtained from only one source, including:

Basic Purchasing Law

- 262.024
 - (c) Sole source items must have a signed statement to that effect entered into the minutes of the Commissioners Court
 - (d) Special procedures are set for bids for the purchase of food items
 - (b) Renewal or extension of a lease or equipment maintenance contract IF certain conditions are met and Court grants exemption

Basic Purchasing Law

- Chapt. 262.0245 – Competitive Bidding Procedures Adopted by County Purchasing Agents
 - Agent must adopt procedures that provide competitive bidding for items under \$50,000.
- Chapt. 262.025 - Legal Notice
 - Notice must be published at least once a week with the first day of publication before the 14th day before the date of bid opening
 - If no newspaper of general circulation in the county, post in the courthouse for 14 days before the date of opening
 - If payment by time warrants, terms of the warrants must be disclosed

Basic Purchasing Law

- Legal Notice (Cont' d) – Chapt. 262.025
 - Notice must include
 - 1) Where to get specifications
 - 2) Time and Place for receiving and opening bids and where to be sent
 - 3) Whether bidder should use lump-sum or unit pricing
 - 4) Method of payment by the county
 - 5) Type of bond required by the bidder

Basic Purchasing Law

- Chapt. 262.0255 - Certain Equipment

Bids of certain heavy equipment may include a request for information about costs of repair, maintenance, or repurchase of the equipment

A bond to cover repurchase costs of the equipment may be required

Chapt. 262.0256 – Pre-Bid Conferences

Can require mandatory attendance from firms wanting to bid.

Basic Purchasing Law

- Chapt. 262.026 - Opening Bids

Bids are opened on the date specified in the notice.

Bids can be extended if in the best interest of county.

Court can delegate bid extension authority to purchasing agent.

Opened Bids shall be kept on file and available for inspection

Basic Purchasing Law

- Chapt. 262.027 - Awarding of Contract

Opened bids shall be presented to Court in session

Court shall award the contract to the responsible bidder who submits the lowest and best bid or reject all bids and publish a new notice

Court shall draw lots to determine a tie bid award

If recommended to award to other than lowest dollar bidder meeting specifications - each lower bidder must be given notice of the proposed award and give an opportunity to appear before the Court

Basic Purchasing Law

- **Awarding of Contract (Cont' d)**
When awarding bids for heavy equipment, Court may consider 262.0255
When awarding bids for road construction materials, Court may award to more than one bidder for particular location or type of material
Award can be subject to compliance with any mandatory pre-bid conference attendance.

Basic Purchasing Law

- **Chapt. 262.030 - Competitive Proposals for Certain Goods and Services**
 - (1) Landscape maintenance
 - (2) Travel management; or
 - (3) Recycling.Used for purchase of specific items allowed in the law
Use Request for Proposals and Public Notice
Specifications must include the relative importance of price and other evaluation factors
Offerors must be accorded fair and equal treatment
(d) In addition, the RFP method may be used for any item if in the best the interest of county and Commissioner Court gives consent

Basic Purchasing Law

- **Competitive Proposals (Cont' d)**
 - (c) Proposals shall be opened to avoid disclosure of contents. All proposals are available for public inspection after award, except for confidential information
 - (e) Revisions may be permitted after submission and before award to obtain the best and final offers

Gov' t Code: Chapter 2254

Professional & Consulting Services Act

- In LGC Professional services are exempt from bidding. GC 2254 prohibits certain professional services from competitive bid.
- Professional services are defined as: predominately mental or intellectual, rather than physical or manual.
- Statute sets the procedures for soliciting professional services.

Disposition of Salvage and Surplus Property

- LGC - Chapt. 263.151 – 263.158

Court may:

- (1) Sell by competitive bid or auction (not necessary if purchaser is another county or a political subdivision within the county that is selling).
- (2) Offer as trade-in for new property of same general type
- (3) Order destroyed or otherwise disposed as worthless if tried to sell and did not receive bids
- (4) Dispose by donating to a civic or charitable organization in the county (certain conditions apply).
- (5) Transfer gambling equipment to Texas Building and Procurement Commission under GC Section 2175.904
- (6) If property is earth-moving, material-handling, road maintenance or construction equipment, the Court may exercise a repurchase option made at time of purchase

Other Disposition of Property Rules

- Code of Criminal Procedure
Art. 1817 - Disposition of abandoned or unclaimed property
Art. 59.06 - Disposition of forfeited property

Other Laws Important to Purchasing

- Nepotism and Conflict of Interest –LGC Ch. 171
- Business Relationship Disclosure-LGC Ch. 176
- Preference for Recycled Products H&SC 361.426
- Non-resident bidders-GC 2252
- Retainage and Bonds-GC 2252 & GC 2253
- Cooperative Purchasing-LGC Ch. 271
- Prison-made Products-GC Ch. 497

Other Purchasing Laws

- Texas Government Code
 - Chapt. 497 - Prison-Made Products
 - Chapt. 791 - Interlocal Cooperation Act
 - Chapt. 2251 - Payment for Goods and Services (Prompt Payment Act)
 - Chapt. 2252 - Bids by Non-resident Bidders
 - Chapt. 2251 - Bond for Labor and Material; Performance Bond
 - Chapt. 2254 - Professional Services

Cooperative Purchasing

- Interlocal Cooperation Act
- Saves tax dollars by pooling purchases
- Satisfies county's bid requirements
- Requires contract between entities
- Requires language in specifications allowing cooperative purchasing
- Fees usually involved - % of purchase or annual fee

Specifications

- Department shall determine requirements and prepare scope of work or product specifications
- Specifications cannot be restrictive
- Specifications can define quality
- Specifications must be competitive
- Single vendor prepared specifications is prohibited
- Don't re-invent the wheel – utilize available resources

The DONT' S of Bidding and Purchasing

- Don't Violate the State bid laws.
- Make a purchase over \$50,000 without taking sealed bids or proposals.
 - Make separate, sequential or component purchases in order to avoid competitive bidding.
 - Grant an exemption from bidding when it doesn't comply with the law.
 - Pass a sole source resolution just because the vendor is the department's favorite.

The DONT' S of Bidding and Purchasing

- > Have a closed mind to new ways of purchasing.
- > Establish local purchasing policies, but waive them frequently.
- > Act in an unethical manner or a manner which gives the appearance of impropriety.
- > Write specifications which are biased in such a way that competition is eliminated.
- > Violate the laws and AG opinions which govern whether and how you may consider the location of vendor's business in award of a bid.

The DONT' S of Bidding and Purchasing

- Ignore the requirement to have vendors obtain Worker' s Compensation insurance.
- Appoint more than two members of the Commissioners' Court to proposal evaluation committees.
- Appoint potential vendors or agents of record to committees to write specifications or evaluate proposals.

Criminal Penalties

- Class B & C Misdemeanor
- Immediate removal from office
- Four years – Ineligible:
 1. for an elected or appointed position
 2. to be employed in county
 3. to receive any compensation through contracts with the county

Cooperative Purchasing Opportunities

- www.uscommunities.org – NACO
- www.tasb.org/buyboard - BuyBoard
- www.hgac.cog.tx.us – Houston-Galveston Area Council of Governments
- www.tcpn.org – The Cooperative Purchasing Network

Resources

- Texas Comptroller's Model Purchasing Manual
- Web resource cites:
 - Texas Association of Counties - www.county.org
 - State Agencies Index - www.state.tx.us/agency/agencies.html
 - Worker's Comp. Rules - www.twcc.state.tx.us/rules/chapter100-119/110.html#110.110
 - Texas Procurement and Support Services (TPASS) <http://www.window.state.tx.us/procurement/>
 - General Services Admin. - www.gsa.gov
 - Attorney General Opinions www.oag.state.tx.us
 - www.nolo.com/index.cfm

Contact Information

*Cyd V. Grimes, C.P.M., CPPO
Travis County Purchasing Agent*

700 Lavaca, Suite 800
Austin, Texas 78701
Phone 512.854.9700
Fax 512.854.9185
www.co.travis.tx.us

HUB Program Staff
512.854.4561
512.854.9914
512.854.4852
