


<b>CITY OF FORT WORTH ADMINISTRATIVE REGULATIONS</b>		SECTION: C
		NUMBER: 13
SUBJECT: Procurement of Goods and Services		Page 1 of 69
REPLACES: Finance Directive 15 and portions of AR-C12	EFFECTIVE DATE: September 25, 2025 REVISION: 05	REVIEW DATE: June 2026
PREPARED BY: Financial Management Services Department	APPROVED BY THE CITY MANAGER  <small>Jay Chapa (Sep 25, 2025 10:29:27 CDT)</small>	

## Revisions and Management Approvals

Revision	Effective Date	Change Reference
R. 05	9-1-25	1) Clarified Section 5E to differentiate operating projects from all other Citywide Events as they relate to the Food & Beverage Memo needed 2) Clarified Request for Quotes/Informal Bids process 3) Clarified Categories versus Items process 4) Legislative Updates 5) Removed Diversity and Inclusion Language 6) Added Small Business Program Information
R. 04	12-1-24	1) Minor revisions throughout to grammar, references, and punctuation. 2) Added definition for Warehouse/Club Store Purchases (Page 14) and included rules for such purchases. 3) Corrected responsibilities to reflect current practice in Section IV(G)-(H) (Page 21) regarding departments contacting Risk Management and DVIN. 4) Clarified Section V(B)(b)-(c) that only urgent and emergency situations should follow the emergency memo process and that all non-urgent but exempted procurements will follow the 252 exemption form process (Page 23). 5) Clarified coffee and water purchase limitations in Section V(E)(h)(3)-(5) (Page 27). 6) Updated the exempt requisition process in Section VI(B)(c)(C)(2) to conform with the current process (Page 29). 7) Clarified the Cooperative process in Section VI(B)(c)(C)(3)(E)(4) (Page 30). 8) Made conforming changes to reflect the revisions listed in number 4 above in Section VI(B)(c)(C)(4)(B) (Page 30). 9) Clarified the required signatures and order for emergency memos in Section VI(B)(c)(C)(4)(D) (Page 31). 10) Clarified Section VII(D)(b)(ii) to allow extension of bids when specifications are revised at the discretion of the CPO (Page 37). 11) Clarified Section VII(F)(a) to address what information is read aloud at bid opening (Page 38). 12) Revised Section X(A) to clarify the notification process for city-wide bids and revised Sections X(C)-(D) to allow for different methodologies of spending controls when multiple business units are using the same contract to allow for advancements and efficiencies moving forward (Page 48).

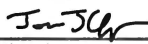

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R. 03	12-1-23	<ol style="list-style-type: none"> <li>1) Minor revisions throughout to grammar, references, and punctuation.</li> <li>2) Revised IV(A)(c) (Page 15) to clarify the delegation of signature authority from the City Manager to the CPO to provide each delegation a separate subsection.</li> <li>3) Revised V(D)(a) (Page 22) to clarify the process for seeking approval for a gift card program for City purposes to third parties.</li> <li>4) Added V(E) Food and Beverage Purchases (Page 23) to include rules and procedures for the purchase of food and beverages using City funds.</li> <li>5) Added VII(L) Electronic Bidding (page 41) to incorporate adopted rules for use of an electronic bidding platform.</li> <li>6) Revised IX(A)(d) (Page 44) to clarify that Purchasing will maintain the current procedures for the RFQ process, which may change over time. Departments should check with Purchasing for current process.</li> <li>7) Added XIII(C)(e) (Page 51) to include the requirement for departments to adopt a policy for Non-PO Voucher approvals on an annual basis.</li> <li>8) Added XIII(D)(f) (Page 52) to include the requirement for departments to adopt a policy for Single Supplier Voucher approvals on an annual basis.</li> </ol>
R. 02	8-1-22	Paragraph VI.B.c.3.D.3.ii. (24); eliminated the three-quote requirement for Fleets Cooperative purchases.
R. 01	7-22-22	<ol style="list-style-type: none"> <li>1) Paragraph IV.D.b.8 (page 17); designate staff to complete purchases under \$50,000. Paragraph V.A.b.2. &amp; 3. (page 19); delegated process for purchasing agreements for city-wide spending within a Single Fiscal Year between \$3,000 and \$50,000 to the departments. Paragraph IX.A.c., d. &amp; e. (page 38 &amp; 39); delegated HUB check requirement to departments.</li> <li>2) Paragraph VI.B.c.3.D.2. &amp; 3. (page 23 &amp; 24); eliminated three-quote requirement for Cooperative purchases except for Fleets procurement.</li> <li>3) Paragraph XIII.C.c. (page 45); elevated Non-PO-Voucher approval requirement to ACM if the combined city-wide spending with one Supplier in a Single Fiscal Year is more than \$3,000.</li> </ol>
Initial	3-15-20	Not applicable



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### Management Approvals

Position	Name	Signature/Approval	Date
City Manager	Jesus "Jay" Chapa	 Jay Chapa (Sep 29, 2025 10:29:27 CDT)	Sep 29, 2025
Chief Procurement Officer	Haven Wynne	 Haven Wynne (Sep 29, 2025 09:49:17 CDT)	Sep 29, 2025

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## I. PURCHASING OVERVIEW

### A. POLICY

The City of Fort Worth is required to conduct all of its purchasing in compliance with all applicable laws. It is the overall policy of the City of Fort Worth to encourage free competition so that taxpayers receive the greatest value for their tax dollars. The City promotes its policy by requiring its purchasing activities to be transparent and to offer all Suppliers equal treatment.

### B. PURPOSE OF ADMINISTRATIVE REGULATION

The purpose of this Administrative Regulation is to provide guidance and instruction to all City employees regarding State Purchasing Laws, City Ordinances, internal controls, and the purchasing processes.

### C. DEPARTMENTS AFFECTED

All City Departments are governed by this Administrative Regulation.

### D. PROCUREMENTS COVERED UNDER THIS ADMINISTRATIVE REGULATION

This Administrative Regulation governs the purchase of all goods and services other than Public Works, except for any portions related to the City's Electronic Bidding Platform. This Administrative Regulation does not apply to Public Works contracts, including architectural, engineering, design, construction or inspection services for Public Works, except for any portions related to the City's Electronic Bidding Platform. Guidance for Public Works contracts and procurements is found in the Public Works Procurement Administrative Regulation.

### E. REFERENCES

- a. Texas Local Government Code,
  1. Chapter 171- Regulation of Conflicts of Interest of Officers of Municipalities, Counties and Certain Other Local Governments
  2. Chapter 176 - Disclosure of Certain Relationships with Local Government Officers
  3. Chapter 252 - Purchasing and Contracting Authority of Municipalities
  4. Chapter 271 - Public Property Finance Act
- b. Texas Government Code
  1. Chapters 552- The Public Information Act
  2. Chapter 791 – The Inter-Local Cooperation Act
  3. Chapter 2251 – The Prompt Payment Act
  4. Chapter 2252 Subchapter A - Non-resident Bidders
  5. Chapter 2253 Subchapter B - Public Work Performance and Payment Bonds



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- 6. Chapter 2254 – The Professional Service Procurement Act
- 7. Chapter 2270 - Prohibition on Investing Public Money in Certain Investments
- c. Fort Worth City Charter - Chapter VI Section 3
- d. Fort Worth City Code
  - 1. Chapter 2 Section 2-9 *Contract Execution*
  - 2. Chapter 2 Section 2-14 *Procedures for Granting Local Preference in Purchasing and Contracting for Certain Personal Property and Services*
  - 3. Chapter 2 Article VII *City of Fort Worth Code of Ethics*
  - 4. Chapter 21 Small Business Program for Procurement of Goods, Services, and Construction
- e. Capital Assets Financial Management Policy Statement
- f. Administrative Regulation – Procurement of Goods and Services - Purchasing Cards

## II. DEFINITIONS

1. **"After the Fact" Purchase** – An "After the Fact" purchase occurs when a Department orders or receives goods, materials, and/or services prior to (i) a PSK being created and/or (ii) a Purchase Order being issued.
2. **Authorized Agent/Employee** - An individual who is empowered to purchase goods and/or services for the City of Fort Worth or to spend City funds in accordance with this Policy either (i) by using a City of Fort Worth Procurement Card (Pcard) or (ii) through the PeopleSoft Purchasing System, and who meets the following requirements:
  - i. Is assigned a role in PeopleSoft Purchasing or authorized to use a Pcard by the Department Head, as shown by a completed and executed Authorization form;
  - ii. Completes the Online Purchasing Policies and Procedures class, if required;
  - iii. Completes a Pcard class if authorized to use a Pcard; and
  - iv. Completes all required training classes and passes required exams, if any.

**Note:** Authorized Agents/Employees do not have authority to execute contractual documents. Except as provided in Section IV.A.b., only the City Manager or a designated Assistant City Manager has the authority to sign contracts. See Section IV.A.b. regarding designation of the Chief Procurement Officer (or designee) as a special Acting Assistant City Manager for the limited purpose of executing certain Purchasing-related agreements.

3. **Best Value** - An evaluation method based on specified "Best Value" criteria. This method is recommended to be used for each "Request for Proposals", "Request for Quotes" and "Invitation To Bid" for (i) services

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and/or (ii) goods and services. This method can also be used for procurements of goods if desired by the Department and Purchasing. The criteria used to determine Best Value may include:

- a. Purchase price/implementation cost;
  - b. Reputation of the Bidder and the Bidder's goods or services;
  - c. Quality of the Bidder's goods or services;
  - d. Extent to which the goods or services meet the City's needs;
  - e. Bidder's past relationship with the City;
  - f. Impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
  - g. Total long-term cost to the City to acquire the Bidder's goods or services; and
  - h. Any relevant criteria specifically listed in the procurement document (Request for Proposals, Request for Quotes, Invitation To Bid, etc.).
4. **Bid Bond** - A bond issued by a surety firm that provides either (i) the successful Bidder will enter into an agreement with the City in compliance with the solicitation or (ii) if the Bidder fails to execute an agreement with the City, the City will receive payment to offset the costs imposed by the failure. Original copies of Bid Bonds are retained in the City Secretary's Office, where they are filed immediately after bid openings by the Department that requested the bid.
5. **Bidder** - An entity (which could be a person or a business) that (i) seeks or has the potential to do business with the City and serve as a Supplier and (ii) responds to a City procurement.
6. **Capital Purchase** - The purchase of an item classified as a Capital Asset in the Capital Assets Financial Management Policy Statement.
7. **Chief Procurement Officer (CPO)** - The Assistant Director of the Financial Management Services Department managing the Purchasing Division.
8. **City** - City of Fort Worth.
9. **City Secretary Contract (CSCO)** - Designation of a contract filed with the City Secretary's Office. These contracts are given specific numbers by the City Secretary's Office to identify them.
10. **Competitive Procurement** - Process in which Bidders are evaluated against each other to obtain the most advantageous terms for the City. The process may be Formal or Informal.

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- a. Formal Procurements are those that are not Exempt Procurements and that involve an expenditure of more than \$100,000 and must be published in a newspaper as required by and in accordance with state law.
  - b. Informal Procurements are those that are not Exempt Procurements and that involve an expenditure of \$100,000 or less and that do not require newspaper publication. For any purchase involving expenditure of more than \$3,000 but less than \$100,000, state law requires contacting at least two historically underutilized businesses on a rotating basis to make them aware of the procurement opportunity (unless there are no such businesses in the county). In addition, the informal bid documents should be sent to all Bidders who have registered with the City with the commodity code that is being procured.
11. **Component Purchases** – Separate purchases of the component parts of an item that in normal purchasing practice would be bought together in one purchase. Making Component Purchases as a way to avoid competitive bidding is prohibited and could result in criminal penalties. An example of a component purchase is purchasing a desktop computer for \$2750 separately from the purchase of a computer monitor for \$450 so that the Purchaser can avoid competitively bidding the purchase.
  12. **Cone of Silence** – Period of time that begins when a solicitation has been released until the Intent to Award has been published. During this period of time, it is prohibited for City employees to have any communication or correspondence regarding the solicitation with anyone outside of the City except to receive and respond to questions posed by prospective Bidders through the official method established by the City for responding to inquiries for procurements. City employees serving on an evaluation panel shall not discuss the scoring or contents of the solicitation, or responses thereto, outside of the formal evaluation meetings. Purchasing staff members will be able to answer procedural questions from potential Bidders, including procedural questions regarding business certifications, during the cone of silence, but will not be permitted to discuss the details of the solicitations received.
  13. **Contract Assignment** – A legal document used to transfer the rights and/or obligations in a contract to another entity. An executed assignment agreement is needed when the City has an active contract with a Supplier and that Supplier has assigned their contractual rights and/or duties to another entity that is operating under a different Tax Identification Number.
  14. **Contract Compliance Manager** – The city employee responsible for managing the contract. The duties and responsibilities are listed in Section XII.
  15. **Contract Release Requisition** (“Contract Release Req.”) – A type of Requisition that must be submitted by the Department in order to create a Purchase Order from an approved, unexpired PeopleSoft Contract.
  16. **Department** - A Department or business unit designated by the City Council or City Manager of the City



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17. **Department Purchasing Representative** –The person assigned by the Department head to inform Purchasing if the Department needs to participate in a bid event. The Department Bid Representative shall serve for a 1-year period. Each Department Head shall appoint 2 Department Bid Representatives each year. The Department Bid Representatives’ duties are more particularly described in Section X.
  
18. **Bid Lead** – The Department’s liaison with the Purchasing Division for an active bid. The Department Lead shall be at a manager or a supervisor level or above. The Department Lead’s responsibilities are more particularly described in Section VI., herein.
  
19. **Electronic Bidding Platform** – Strategic Sourcing Software used by the City to digitize bidding processes including posting bid opportunities, receiving bids and proposals, documenting evaluation, and performing other required steps in the procurement process.
  
20. **Emergency Purchase** - Defined in Section VI.B.c.4.
  
21. **Exempt Procurements** – Procurements for which no competitive process is required due to a specific exemption under state law. Examples of Exempt Purchases include those for electricity and advertising (other than legal notices). The City Attorney’s Office determines whether a department has provided sufficient justification that a procurement is exempt. To determine whether a procurement is exempt, a Department must submit a “Chapter 252 Exemption Form” to the City Attorney’s Office and obtain the attorney’s approval.
  
22. **Fiscal Year** – The twelve-month financial and budgetary period used by the City of Fort Worth, beginning on October 1st and ending on the following September 30<sup>th</sup>.
  
23. **Information Technology Procurements (IT Procurements)** - Procurements of computer/electronic hardware, software, and/or system management and any consultant services needed to implement the hardware and/or software.
  
24. **Intent to Award** – Public document indicating staff’s recommendation to award a procurement to a particular Bidder(s) for competitive solicitations. The Intent to Award generally takes the form of a Mayor and Council Communication (M&C) from staff and is considered to be made public when a City Council agenda containing the M&C is posted for bids over \$100,000, prior to Council action. The Intent to Award will be posted on the electronic bidding platform.

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25. **Invitation to Bid (ITB)** – A Formal Procurement document issued by the Purchasing Division for goods and/or services that have a total anticipated cost in excess of \$100,000. ITBs follow Texas Competitive Bidding statute requirements.
26. **PeopleSoft Contract (PSK)** - The electronic representation of the contract between the City and a Supplier contained in Peoplesoft Purchasing that allows the Department to create Purchase Orders. The PSK shall at a minimum contain:
1. The legal name of the Supplier (as shown in the results of the Texas Secretary of State search or other documentation from the state of registration and confirmed as the same name assigned to the business' tax identification number);
  2. The contract spending authority amount per contract term (how much the City can spend with the particular Supplier);
  3. The start and expiration date. The PSK starts at 12:00am on the listed start date ends at 11:59 pm on the listed expiration date;
  4. The United Nations Standard Products and Services Code (UNSPSC) or equivalent for each good and/or service being procured. The Code is a system of classifying products and services;
  5. The name of the Contract Compliance Manager for any City Secretary Contract; and
  6. The following attachments:
    - i. A report from the federal government's System of Award Management (SAM) Excluded Parties list showing that (i) for non-grant-funded procurements, that a search for the Supplier's legal name was made and that the Supplier is not listed as being debarred or (ii) for any grant-funded procurement, that the Supplier is either (A) Active in SAMs or (B) not included on the SAMs exclusions list, as required by the specific grant;
    - ii. A print out of each of the applicable "Divestment Statute Lists" from the Texas Comptroller's website showing that the Supplier is not on the list;
    - iii. The M&C, if applicable; and
    - iv. Any other document Purchasing deems necessary.
27. **Personal Services** - Services that are performed by a particular individual due to a specific talent or unique ability (e.g., artist). Because of its nature, a Personal Service generally cannot be subcontracted or assigned.
28. **Procurement** – Process used to purchase goods, services, or a combination of goods and services. Since the City is a governmental entity, City purchases are completed through Competitive Procurements (Bids) unless they qualify as Exempt Procurements (Exempt from Bidding).

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29. **Professional Services** – Professional Services are those requiring specialized training, education, or experience. Professional Services are not subject to the requirements of Chapter 252 of the Texas Local Government Code; however, Professional Services specifically identified in Chapter 2254 of the Texas Government Code must follow the procurement requirements in Chapter 2254. If a Department needs to procure a professional service, the Department must submit a “*Chapter 252 Exemption Form*” to the City Attorney’s Office for determination whether the department has adequately articulated that the service in question qualifies as a professional service, and if so, whether the service is (A) subject to Chapter 2254 of the Government Code or (B) exempt from bidding.
30. **Public Works Contracts** –Contracts for constructing, altering, or repairing public infrastructure including public buildings; roads; streets; bridges; water, wastewater, and other utilities; airport runways and taxiways; storm drainage and flood control infrastructure; and transit structures. The term also includes contracts for associated architectural, engineering, design, construction or inspection services.
31. **Purchasing Plan** - A plan developed on an annual basis by a Department as part of the budget process that contains anticipated purchases of goods and services, including new one-time purchases, that will be purchased with the budget allocation for the coming fiscal year.
32. **Purchase Order (PO)** - A PeopleSoft Purchasing System generated document used by the City to place an order with a Supplier. Purchase Orders are automatically created after a Department Requestor submits an error- free Contract Release Requisition and it is approved by the Department’s Approver.
33. **Request for Proposals (RFP)** – A formal written document requesting that Bidders provide proposals on the means and methods of how they will provide the requested services, goods, or combination of goods and services to the City. The evaluation criteria to award a contract from an RFP shall be Best Value. The award of contract shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the RFP.
34. **Request for Qualifications (RFQual)** – Process used for the solicitation of certain professional services that are subject to procurement in accordance with Chapter 2254 of the Texas Government Code. See Section V.B. for a list of statutory Professional Services.
35. **Request for Quotes (RFQt)** – An Informal Procurement issued for goods and/or services that have a total anticipated annual cost of \$100,000 or less for the entire City. The total spending authority of a PSK or a group of PSKs awarded through an RFQt process can never exceed \$100,000 per Fiscal Year.
36. **Request for Solicitation Requisition (RFS)** - This is a type of a requisition submitted by a Department for a



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bid.

37. **Requisition** – Instrument used to start the process to purchase goods and/or services or start a procurement process. All Purchasing activities begin with a Requisition and the actual “purchasing” is accomplished through a Purchase Order.
38. **Senior Purchasing Manager** – A person working in the Purchasing Division designated by the CPO to oversee general purchasing issues, buyers, purchasing supervisors, department purchasing managers assigned within FMS, and the protest procedures.
39. **Sequential Purchasing** – Purchasing the same item or type of item individually or in small groups that would normally be purchased at one time in order to avoid competitive procurement requirements. Making Sequential Purchases as a way to avoid competitive bidding is prohibited and could result in criminal penalties. An example of a sequential purchase is when a Department needs 15 tents at a cost of \$500 each and the Department decides to purchase the tents in groups of 5 so that they can avoid competitive bidding.
40. **Small Business** – A business that meets the requirements of Chapter 21 of the City Code.
41. **Supplier/Vendor** – An entity who provides goods and/or services.
42. **Warehouse/Club Store Purchases**- Purchases made using City Funds for a business purpose at one or more authorized Warehouse or Club Store. These purchases may only be made at stores authorized by the Purchasing Division and for which the City has corporate membership cards. Purchases may only be made by Pcard Holders enrolled in the store-specific program, who has completed all required training, and in compliance with the Pcard Administrative Regulation.

### III. KEY LEGAL REQUIREMENTS

**\*\*NOTE:** There are a variety of state laws and City Code provisions that apply to a procurement depending on the specifics of what is being purchased. The regulations below highlight those provisions that are most commonly applicable.

- A. GENERAL PROCUREMENT REQUIREMENT – CH. 252 TEXAS LOCAL GOV'T CODE
  - a. Chapter 252 of the Texas Local Government Code governs the process the City must use to procure goods and services when making a purchase over \$3,000, including the requirement for Formal Procurement for expenditures of \$100,000 or more that are not Exempt Procurements.
  - b. Chapter 252 Of the Texas Local Government Code provides *criminal penalties* for engaging in any of

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the following prohibited activities:

1. Making Sequential Purchases in order to avoid the competitive procurement process.
2. Making Component Purchases in order to avoid the competitive procurement process.

**\*\*NOTE: It is a violation of state law to make sequential or component purchases to avoid competitive procurement requirements. A City employee engaging in conduct in violation of state law is subject to potential discipline. In addition, any officer or employee of the City convicted of intentionally or knowingly conducting sequential or component purchases may be fined and/or imprisoned.**

## B. COOPERATIVE PROCUREMENTS

- a. Chapter 271 of the Texas Local Government Code allows the City to acquire goods or services via a cooperative purchasing program (such as the Houston-Galveston Area Council (H-GAC) or the Texas Association of School Board's BuyBoard) and provides that a procurement made through a cooperative satisfies competitive procurement requirements.
- b. Chapter 791 of the Texas Government Code allows the City to execute an Inter-Local Agreement with another Texas governmental entity in order to allow the entities to "piggyback" on each other's competitively procured agreements and provides that a procurement via such a piggyback satisfies competitive procurement requirements. When using this method to procure goods and/or services, there must also be an executed contract between the City and the Vendor.
- c. Cooperative procurements are ***only permitted*** if the department is granted a waiver by the City Manager or their designee from utilizing the Small Business Program described below in Section III.C.

## C. SMALL BUSINESS PROGRAM FOR PROCUREMENT OF GOODS AND SERVICES

### a. In General

1. City Ordinance No. 27832-08-2025, as codified in Chapter 21 of the City Code, established a Small Business Preference for all procurements between \$3,000.00 and \$100,000.00 and directed the City Manager to establish a Small Business Goal for all procurements greater than \$100,000.00.
2. The Small Business Preference applies to Small Businesses that have a principal place of business within the City of Fort Worth as defined in Chapter 21 of the City Code.
3. The Small Business Goal can be met by engaging Small Businesses located in Tarrant, Denton, Johnson, Parker or Wise county.
4. In order to qualify as a Small Business, the business must have a current certification from an organization approved by the City Manager for the specific good(s)/service(s) being acquired.

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5. **Certain** types of procurements are excepted from the Small Business Ordinance as detailed in Section C, d. below.
  6. A waiver can be requested for a specific, non-excepted procurement in accordance with Section C, e. below.
- b. Process for Procurement Involving Small Business Preference (total cost between \$3,000.00 and \$100,000.00)**
1. Every procurement that is subject to this AR and is for an amount between \$3,000.00 and \$100,000.00 is subject to the City's Small Business Preference, unless the procurement is of a type that is excepted (see Section C, d.) or a waiver for the specific non-excepted procurement has been granted by the City Manager or a designated Assistant City Manager (see Section C, e.).
  2. Procurements under this AR that are subject to the Small Business Preference **must be procured on a lowest-responsible-bidder basis** using a request for quotes solicitation process.
  3. To be eligible for evaluation under the preference, a Small Business must submit proof of current certification for the good(s) or service(s) being procured at the time of quote submission along with all other required documents listed in the request for quotes document.
    - i. Any Bidder for whom a certificate is not provided will be evaluated as though that Bidder is not a Small Business.
    - ii. If a certificate is provided but (i) is expired or (ii) does not indicate the Bidder is certified as a Small Business with respect to the specific good or service being procured (based on commodity/service codes), the Bidder will be evaluated as though they are not a Small Business.
  4. Mechanics of Applying Preference. The Small Business Preference works as follows:
    - i. Bids submitted by Small Businesses with a principal place of business in the City of Fort Worth will be evaluated as if the price bid submitted is 5% lower than the actual amount submitted.
    - ii. The City will award the contract to the lowest responsible bidder after preference adjustments.
    - iii. The amount of the awarded contract will be the actual amount submitted. See examples



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below:

Example 1:

Bidder	Bid Amount	Small Business Certified	Bid as Adjusted for 5% Preference	Contract Award Amount
A	\$48,000	No	\$48,000	
B	\$49,000	No	\$49,000	
C	\$50,000	Yes	\$47,500	\$50,000

Utilizing the Small Business Preference, Bidder C is the lowest responsible bidder, but the awarded contract will be in Bidder C's actual bid amount.

Example 2:

Bidder	Bid Amount	Small Business Certified	Bid as Adjusted for 5% Preference	Contract Award Amount
A	\$47,000	No	\$47,000	\$47,000
B	\$48,000	No	\$48,000	
C	\$50,000	Yes	\$47,500	

Utilizing the Small Business Preference, Bidder C is the **second-lowest** responsible bidder and is not awarded the contract.

5. In working with Purchasing to set up the PeopleSoft Contract (PSK) following the award, the department shall ensure that the PSK record reflects (i) whether the preference was applied and (ii) whether the award was to a Small Business.

**c. Process for Procurement Involving Small Business Goal (total cost over \$100,000.00)**

1. The Small Business Goal is established at 30% and will be evaluated for future adjustment.
2. Every procurement that is subject to this AR and is for an amount greater than \$100,000.00 is required to meet the City's Small Business Goal, unless the procurement is of a type that is excepted (see Section C, d.) or a waiver for the specific non-excepted procurement has been granted by the City Manager or their designee (see Section C, e.).
3. Procurements under this AR that are subject to the Small Business Goal **must be procured utilizing best value criteria**. The evaluation criteria must be identified in the RFP solicitation document, including the amount of points assigned for compliance with the Small Business Goal.

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Because the type of goods or services being procured and the circumstances surrounding each particular procurement can affect which best value criteria are most appropriate to be utilized and what points ought to be assigned to each criterion, Departments are required to collaborate with the Purchasing Division to establish the criteria (including but not limited to the Small Business Goal) for each procurement and the points to be assigned to each factor or criterion being evaluated.

In the event there is a dispute over how points for a procurement are to be allocated, the Purchasing Division is authorized to make the final decision.

4. The Small Business Goal may be met by self-performance by a Small Business, documentation demonstrating the use of one or more Small Business subcontractors, or a combination of both.
5. The City will not specify commodity/service codes in its solicitation documents and instead allow Bidders to determine how best to incorporate Small Businesses. Purchasing staff will review bid responses to verify that the identified Small Businesses align with the goods and/or services being procured under the solicitation based on the commodity/service codes for which the Small Businesses are certified and the services/goods they will be contributing.
6. For each Small Business whose participation in the procurement is being counted toward meeting the Small Business Goal, proof of current certification for the good(s) or service(s) being procured must be provided at the time of bid submission along with all other required documents listed in the RFP solicitation document.
  - i. Any Bidder or subcontractor for whom a certificate is not provided at the time of bid submission will be evaluated as though that Bidder/subcontractor is not a Small Business.
  - ii. If a certificate is provided but (i) is expired or (ii) does not indicate the Bidder or subcontractor is certified as a Small Business with respect to the specific good or service being procured (based on commodity/service codes), the Bidder or subcontractor will be evaluated as though they were not a Small Business.
7. If a solicitation is undertaken and includes a Small Business Goal but none of the submitted bids meets that goal (including, but not limited to, situations where the goal is not met because of the failure to provide certificates for all Bidders/subcontractors and/or goods and services being procured), then the bids will be evaluated based on the remaining best value criteria.
8. The Small Business Goal is only applicable to the initial procurement and will not be applied to change orders.

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9. In working with Purchasing to set up the PeopleSoft Contract (PSK) following the award, the department shall ensure that the PSK record reflects (i) whether the procurement was subject to a mandatory Small Business goal, (ii) whether it utilized a Small Business (regardless of whether a goal was set), and (iii) the amount (expressed as a percentage of the total contract amount) that is to be performed by the Small Business.

**d. Excepted Procurements**

1. The Small Business Goal and Small Business Preference do not apply to:
  - i. Contracts exempt from competitive procurement under Section 252.022 of the Texas Local Government Code;
  - ii. Professional services subject to procurement under Chapter 2254 of the Texas Government Code;
  - iii. Community facilities agreements, infrastructure construction agreements, and any other similar agreements relating to the construction of public infrastructure or a public building by a developer if the City's participation in the agreement is less than \$1,000,000;
  - iv. Emergency contracts; and
  - v. Contracts in which, due to the use of state or federal funding, the state or federal government establishes participation requirements related to the types of businesses performing work under the contract.

**e. Seeking a Waiver**

1. If a specific procurement is not subject to an exception under Section C, d. but a department has specific reasons for asserting that the Small Business Preference or Small Business Goal should not apply, the department may request a waiver.
2. A department may be able to obtain a waiver of the Small Business Preference or Small Business Goal if fewer than three (3) Small Business contractors or subcontractors are available for the specific goods or services being procured. The department seeking a waiver on this basis must make an initial review to evaluate Small Business availability. The Small Business team in the Purchasing Division will undertake its own review of Small Business availability and must confirm the department's conclusion before a waiver can be approved on this basis.
3. Waiver requests must be signed by the Department Head prior to the bid opportunity being publicized.

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4. Only the City Manager, Assistant City Manager, or their designee may approve a waiver.
5. A waiver is generally limited to a specific procurement or procurements for the same good/service within the same fiscal year and may not be applied to future situations in which the same good/service is being procured.
6. A waiver is required in order to utilize cooperative procurement agreements. Although a waiver is generally only valid for one year from its approval, if a waiver is granted permitting the use of a cooperative procurement agreement, at the City Manager, Assistant City Manager, or their designee's discretion, the waiver may allow the department to enter into a contract for the full term, including any renewals, of the underlying cooperative agreement without needing to obtain a new waiver each year.

**f. Process for Obtaining Goods or Services of Low Value (total cost less than \$3,000)**

1. Obtaining goods or services of a value less than \$3,000.00 must be handled consistently with Section V.A.b.1.
2. If a transaction is initially valued below \$3,000.00, it may not be amended or otherwise revised to exceed \$3,000.00 in any year and should instead be processed in accordance with the Small Business Ordinance, subject to a preference or goal as applicable.

**g. Sanctions for Non-Compliance and Providing False/Misleading Information**

1. If a vendor fails to comply with their contractually agreed Small Business Goal or provides false or misleading information to the City in connection with Small Business utilization, they may no longer be considered a responsible bidder for future City bids.

**D. ROLES OF COUNCIL AND CITY MANAGER (CITY CODE AND STATE LAW)**

- a. City Council must approve the following:
  1. All contracts and agreements that exceed \$100,000 (City Code Section 2-9);
  2. All contract amendments and change orders that exceed \$50,000 for non-Exempt Procurements (City Code §2-9);
  3. All contract amendments and change orders that exceed \$100,000 for Exempt Procurements (City Code §2-9); and
  4. All bid rejections for Formal Procurements if the bid was not cancelled before bid opening (Texas Local Government Code Chapter 252).



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- b. The City Council has delegated authority to the City Manager to:
1. enter into contracts for goods and services up to \$100,000 (City Code §2-9); and
  2. establish policies and procedures for the purchase of all goods and services (City Charter).

**\*\*NOTE:** Section 2-9 of the City Code dictates when a procurement must be specifically approved by the City Council via Mayor and Council Communication (M&C) and when the procurement can be administratively approved by the City Manager or Assistant City Manager.

**E. 1295 DISCLOSURE FORM (Government Code § 2252.908)**

Any procurement that is presented to the City Council for approval must include a recently completed 1295 Form from the Supplier, unless the Supplier is exempt from this requirement under the relevant state law. The Department submitting the Mayor and Council Communication (M&C) is responsible for obtaining a completed 1295 Form from the Supplier before placing the proposed purchase on the City Council agenda. **Note - The "General" tab in the M&C System lists the types of contracts that are exempt from needing a 1295 Form.**

**F. CITY CODE OF ETHICS**

- a. The City's Code of Ethics applies to all City employees.
- b. The Ethics Code is codified in Article VII of Chapter 2 of the City of Fort Worth Code of Ordinances and includes prohibitions against City employees contracting with the City, taking things of value from potential City Suppliers, and disclosing City information to a third party.

**NOTE:** The preceding sentence is a summary of key points from the Ethics Code. **City employees are responsible for being aware of and complying with all requirements and restrictions of the City's Code of Ethics.** If a City Employee has any questions about the City's Code of Ethics, the employee should contact his or her supervisor.

**G. "AFTER THE FACT" PURCHASES**

- a. In no instance is a Department authorized to make a telephone purchase or an online purchase to be followed at a later date by completing a requisition and purchase order. Acquisitions of this nature will be treated as unauthorized purchases. Certain unauthorized purchases carry misdemeanor penalties as described in Texas Local Government Code, Chapter 252.
- b. If the Department believes that its need for an item and/or service is vitally urgent and qualifies as an Emergency Procurement, it should be processed in the manner described in Section VI.B.c.4. instead of making an After the Fact Purchase. If an acquisition does not qualify as an Emergency Purchase, the Department may request Purchasing issue a bid or may submit an "Exemption to

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Bidding" form with their Exempt Requisition for the City Attorney's Office to review. If it is determined that an exemption does not apply, the Purchasing Division will issue a bid in order for the Department to purchase the goods and/or service

#### IV. PURCHASING RESPONSIBILITY AND AUTHORITY

##### A. IN GENERAL

- a. The City Charter requires that all contracts (including purchase orders or Informal Procurements without any formal written agreement) must be executed by the City Manager or staff specifically designated as an Assistant City Manager and must be approved by the City Attorney or their designee.
- b. By signing this Administrative Regulation, the City Manager and the City Attorney have approved the use of the City's standard terms and conditions for the following scenario and such approval shall have all legal effect as if the agreements were specifically signed by each: A scenario in which: (1) a Procurement was undertaken, (2) the Procurement documents included the Standard Terms and Conditions, (3) the Procurement documents indicated that by submitting a signed bid a Bidder was agreeing to be bound by the Standard Terms and Conditions, (4) the Bidder submitted a signed bid, and (5) a Purchase Order was issued to that Bidder.
- c. By adoption of this Administrative Regulation, the City Manager has designated the City's CPO or the Purchasing Manager in the CPO's absence, as an Acting Assistant City Manager solely for the purposes of executing agreements, renewals, amendments, or otherwise authorizing or engaging in procurements that meet the following criteria:
  1. New agreements or amendments for a total contract price that does not exceed \$100,000 for completed Informal Procurements;
  2. New agreements up to \$100,000 for completed Formal Procurements;
  3. New agreements up to \$100,000 for Cooperative Agreement Purchases;
  4. New agreements up to \$100,000 for other exempted Purchases that have been approved by the City Attorney's Office;
  5. Renewals, which can include line-item price increases, for any agreement approved under IV(b);
  6. Amendments to any agreements that do not require City Council approval; and
  7. Interlocal Agreements for the purpose of cooperative purchasing.
- d. The City Manager has entrusted Department Heads with ultimate responsibility for their Departments' procurements being in compliance with State Purchasing laws and regulations and City Ordinances.

**\*\*NOTE: Unauthorized personnel who attempt to contract in the name of the City or to make purchases outside of the scope of this Administrative Regulation may be subject to disciplinary action, criminal liability, other legal action and/or personal financial**

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liability.

## B. SEPARATION OF DUTIES

### a. Internal Control

Separation of Duties is an Internal Control used to reduce errors and reduce the likelihood of fraud in connection with financial transactions, including procurements. Under Separation of Duties, each transaction generally requires some form of input or approval from at least two employees in order to ensure that a single employee does not have the ability to both commit an error or fraud and to conceal it. In addition, Separation of Duties should reduce errors because more than one staff person is responsible for reviewing a transaction.

### b. Continuation of Separation of Duties

By the adoption of this Administrative Regulation, the City continues to implement Separation of Duties as an Internal Control for City purchases.

### c. Assignment of Roles and Training

Except as provided in Section IV.B.e. and f. below, to ensure that the City has Separation of Duties in its purchasing activities, the Department Head must assign separate individuals for each of the roles listed in Section IV.B.d below. In order for a Department Head to change the Purchasing Role of the Department employee, the Department Head must sign a form authorizing the change, and the person must complete all required training and pass any tests if required. Upon successful completion of all training and tests, the person will be given the new role in PeopleSoft Purchasing. The form authorizing the Purchasing Roles shall be reviewed annually by the Director to ensure that it is accurate.

### d. Purchasing Roles

Except as provided in Section IV.B.e. and f. below, each Department must have separate individuals assigned to each of the following roles in the PeopleSoft Purchasing System ("System"), (or in other words an individual cannot have 2 roles):

1. **Requestor** - The individual who creates the Requisition in the System, which starts the procurement process.
2. **Approver** - The individual who approves the Requisition in the System. The Approver should be someone in a supervisory position.
3. **Receiver** - The individual who is responsible for acknowledging receipt of the goods and/or services in the System *only after actual receipt* of the goods and/or services by the City.
4. **Voucher** - The individual who is responsible for creating the voucher in the System to allow for payment to the Supplier after the goods/services have been "received" by the Receiver.

### e. Independent Verification Systems for Receiving

Departments that have a separate and independent computer program that manages receiving of



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goods and/or services may submit a Separation of Duties Waiver Memo to Purchasing to allow a Requestor to also have the Receiver role. In order to qualify for the Waiver, the Department must explain how the separate and independent system works, how the goods and/or services are received and that the independent system can produce documentation that shows that the goods and/or services are being received by a different person. The documentation must be attached to the receipt in PeopleSoft. If Purchasing denies their request, the Department must conform to the separation of duties as outlined in Section IV.B.d. If the Waiver is approved, the Purchasing Division will conduct quality assurance testing every six months to ensure that the independent system documentation is attached to each receipt. If the independent system documentation is not attached to 100% of the receipts tested, the Department's waiver shall be revoked and the Department must comply with Section IV.B.d.

f. Departments with 10 or less support staff

If a Department has 10 or fewer support personnel (employees with classifications such as administrative assistants or office technicians) on an ongoing basis, the Department Head can assign a single employee to serve as both a Requestor and Receiver, **provided however that the same employee may never serve both roles on the same transaction.** If a Department temporarily has fewer than 5 support personnel due to short-term or long-term vacancies and is unable to have separate individuals in each of the four roles, the Department should contact the CPO or the Purchasing Manager on how to proceed.

### C. CITY COUNCIL

City Council's role in procurement includes the approval of budgets and appropriation of funds as well as the specific approval of procurements for which authority has not been delegated to the City Manager under §2-9 of the City Code.

### D. CITY MANAGER

- a. The City Manager approves procurements for which he has been delegated authority under Section 2-9 of the City Code and approves policies governing the conduct of City employees, including procurement policies.
- b. The City Manager has delegated to the Department Heads the authority to:
  1. designate staff to complete purchases under \$3,000 where a signed agreement is not required and aggregate city-wide purchases with the same vendor do not exceed \$3,000;
  2. designate staff to serve in purchasing roles in the PeopleSoft Purchasing System;
  3. designate staff to complete and submit the Annual Purchasing Plan annually;
  4. designate 2 Department Bid Representatives each year;
  5. proceed with Emergency Purchases under \$100,000 with the concurrence of the CPO and the Law



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Department;

6. enforce and carry out the purchasing rules, regulations and policies as established in this Administrative Regulation, other City Administrative Regulations, State and Federal Laws, and City ordinances;
  7. designate a Contract Compliance Manager for each contract; and
  8. designate staff to work with Purchasing to complete purchases under \$100,000.
- c. The City Manager has delegated to the Chief Procurement Officer and the Purchasing Manager the authority to:
1. Oversee the procurement of goods and services for the city of Fort Worth
  2. Executing agreements or otherwise authorize or engage in procurements as described in Section IV.A.c.;
  3. Reject Informal Procurements;
  4. Sign Purchase Orders when required by the Supplier; and
  5. administer, enforce and carry out the purchasing rules, regulations and policies as established in this Administrative Regulation, other City Administrative Regulations, State and Federal Laws and City ordinances.

#### E. CITY ATTORNEY'S OFFICE

- a. The City Attorney's Office is responsible for providing legal services to the City.
- b. Departments seeking to procure outside legal services must receive written approval from the City Attorney's office and if approved, also receive City Council authorization as required by the City Charter. Payment for outside legal services requires the City Attorney's approval.
- c. The City Attorney's Office is responsible for drafting purchasing contracts.
- d. The City Attorney's Office is responsible for approving all requests for an exemption to the bidding requirements for any procurement with a supplier that the City has spent more than \$3,000 in the fiscal year.

#### F. CITY DEPARTMENTS

- a. Each Department Head is responsible to ensure full compliance of all purchasing policies and procedures outlined in this Administrative Regulation, the City Code and the State Statutes within his/her Department.
- b. Department Heads shall designate employees within their Department to prepare requisitions, approve requisitions, receive goods and/or services, and pay for goods and/or services received.
- c. Department Heads shall designate individuals to serve as Contract Compliance Manager for every contract that is on file with the City Secretary's Office.

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- d. Department Heads shall designate staff to plan needed procurements in order to allow the Purchasing Division sufficient time to procure the needed goods and/or services. In order to accomplish this, each Department must submit a Purchasing Plan during the budget process for each fiscal year. The plan must list what needs to be purchased in the coming year, the amount to be spent and when the deadline for the purchase.
- e. Department Heads shall designate a Supervisor or Manager, or higher level as the "Department Lead" for each bid managed by Purchasing for the Department.
- f. Department Heads shall designate 2 Department Bid Representatives each year who shall determine if the Department should participate in a bid conducted by the Purchasing Division.

#### G. PURCHASING DIVISION

- a. The Chief Procurement Officer (CPO) with the assistance of the City Attorney's Office and Internal Audit, oversees compliance with all procurement requirements for goods and services as prescribed in Chapters 252 and 271 of the Texas Local Government Code, other State statutes, the Fort Worth City Code of Ordinances, as well as, this and other Administrative Regulations.
- b. The CPO will provide a quarterly report to the City Manager on the following:
  - 1. Department compliance with this AR;
  - 2. a description of each "After the Fact Purchases" made by a Department;
  - 3. a list of bids requested and status; and
  - 4. any other information the City Manager requests.
- c. The CPO will provide an in-person presentation to the City Manager for the last quarter of each fiscal year.

### V. PROCUREMENTS FOR GOODS AND/OR SERVICES

#### A. PROCUREMENT METHOD DETERMINED BY TOTAL CITYWIDE EXPENDITURES IN SINGLE FISCAL YEAR

- a. State law provides that in order for a city to enter into a contract for the expenditure of more than \$100,000, the City must follow the competitive bidding procedures outlined in Chapter 252 of the Texas Local Government Code.
- b. Although state law requires competitive bidding only when the expenditure exceeds \$100,000, in order to meet the City's goals to generate fair and open competition, purchases should comply with the following guidelines:
  - 1. If the combined city-wide spending totals under \$3,000 with one Supplier in a Single Fiscal Year no procurement process is required per state law. This means there is no requirement to engage in a competitive bid, perform a HUB check, or utilize the Small Business Preference.
  - 2. If the combined city-wide spending is between \$3,000 and \$100,000 with one Supplier within a

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single Fiscal Year, the department shall ensure that the HUB requirements are satisfied, to utilize the Small Business Preference, and follow the RFQ informal process. The department shall forward evidence of verifying HUB requirements and quotes to the Purchasing Division to create a PeopleSoft Contract (PSK) and the department shall issue a Purchase Order (PO) before obtaining goods and/or services. The department shall execute a City Secretary Contract.

3. . City Council also established a Small Business Preference that must be applied when awarding contracts between \$3,000.00 and \$100,000.00.
4. Purchases of food for City meetings from one Supplier with a combined city-wide spending between \$3,000 and \$100,000 in a single Fiscal Year do not require an informal competitive bidding process.
5. Before the purchases of training and/or classes between \$3,000 and \$100,000, the Department must submit a request to the CPO to determine if a competitive bid is required. When it is determined that a competitive bid is not required, Purchasing shall ensure that the HUB requirements are satisfied before the purchase occurs.

## B. EXEMPTIONS TO THE COMPETITIVE PROCUREMENT PROCESS

- a. The following procurements are exempt from the competitive procurement process:
  1. a procurement made because of a public calamity requiring the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
  2. a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
  3. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
  4. a procurement for personal, professional, or planning services;
  5. a procurement for work that is performed and paid for by the day as the work progresses;
  6. a purchase of land or a right-of-way;
  7. a procurement of items that are available from only one source, including:
    - (A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
    - (B) films, manuscripts, or books;
    - (C) gas, water, and other utility services;
    - (D) captive replacement parts or components for equipment;
    - (E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
    - (F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;



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8. a purchase of rare books, papers, and other library materials for a public library;
9. paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
10. a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
11. a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212, Texas Local Government Code;
12. 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, Texas Business & Commerce Code;
  - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - (D) under an inter-local contract for cooperative purchasing administered by a regional planning commission established under Texas Local Government Code Chapter 391;
13. services performed by blind or severely disabled persons;
14. goods purchased by a municipality for subsequent retail sale by the municipality;
15. electricity; or
16. advertising, other than legal notices.
- b. Exemptions 1 through 3 listed above for urgent situations or emergencies shall follow the procedures in VI.B.c.4. Emergency Procurements.
- c. Exemptions 1 through 16 listed above, including exemptions 1 through 3 for non-urgent and non-emergency situations, shall follow the following process:
  1. The City Attorney's Office is responsible for determining whether a claimed exemption to competitive procurement is defensible in the event the City were ever challenged on the procurement. Except for Emergency Procurements, in order for the City Attorney's Office to make this determination, the Department must submit a *Chapter 252 Exemption Form* to the City Attorney's Office through an Exempt Requisition.
  2. If the City Attorney's Office determines that the procurement is not exempt, the Department must follow a competitive bidding process.
  3. If the City Attorney's Office determines the procurement qualifies as an exemption under Chapter 252, the department shall submit a written request to their assigned Assistant City Manager (ACM) to allow the Department to a contract with the Vendor without a competitive process being conducted. If their assigned ACM approves the request, the Department can contract directly with the Vendor. If their assigned ACM denies the request, a competitive process must be



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followed.

- d. Because of the time required to conduct a bid if an Exemption is not approved, Departments are directed to start the process for an Exemption at least 90 days before the contract is needed.

### C. INFORMATION TECHNOLOGY (IT) PROCUREMENTS

Since ultimate responsibility of the City's network and computer system rests with the IT Director, the approval of the IT Director or his or her designee shall be required for all IT Procurements before actual purchase. This requirement governs all IT procurement, i.e. sending information or receiving information through the city's network, connecting equipment or technology to the city's network, or the purchase of any hardware or software. IT approval is required even if a Department has its own system or personnel to maintain its own system. The IT Director will determine the extent of IT's involvement in any IT Procurement, i.e. whether IT will have representatives in the evaluation panel, review specifications, etc.

### D. GIFT CARDS

- a. Generally, gift cards should not be purchased for the general public, however, gift cards may be purchased as specified in an approved gift card program, such as the programs for Code Blue personnel for expenses incurred by performing their Code Blue responsibilities and residents who submit water samples for the Water Department. Departments wanting to establish a gift card incentive program should work with the City Manager's Office and the City Attorney's Office.
- b. If a Department would like to purchase a gift card for a City employee, Departments must:
  1. account for the gift cards in its annual budget,
  2. include the Gift Card Incentive Program the Department's Personnel Policy,
  3. communicate the gift card program to employees before the work is undertaken (that is to say, the gift cards should not be a surprise to employees),
  4. Request and Receive approval of the Human Resource Director as required by City's Personnel Rules and Regulations (*Please see* section 2.8.3 Incentive and Lump-Sum Awards);
  5. Payroll must have the names of the employees who receive the gift cards so that the amount can be included in their annual income;
  6. The Gift Card Incentive Program should include:
    - (A) how gift cards are purchased,
    - (B) how they are stored; and
    - (C) how they are distributed; and
    - (D) A provision that states that within 5 business days of presenting the gift card to the employee, the Department shall submit the names and employee ID number to Payroll so that the amount can be included in the employee's compensation
- c. Upon the Policy being approved by the Human Resource Director, the Department shall send a copy to Purchasing and Payroll.
- d. the failure to follow the requirements in this section can result in the Human Resource Director revoking approval of the Department's Gift Card Incentive Program.

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## E. FOOD AND BEVERAGE PURCHASES

- a. All purchases of food and beverages must be made using funds within each Department's existing budget; **no additional funds will be allocated for food and beverage purchases.**
- b. Food and beverages should not be purchased using City funds except as expressly allowed by this AR.
- c. Employees may purchase food and beverages in compliance with the City's Travel Policy while traveling for City business.
- d. For the purchase or rental of all other items other than food and beverages, including venue rentals, activities, gift cards, or other employee recognition or awards, please refer to the appropriate sections in this AR. In the event a specific request is not addressed in the AR, the department must receive approval from their Director or the Department's ACM, as required for the purchase of food for the same event. If there is a question or concern about a certain expense, Directors and/or ACMs should confer with the City Attorney's Office regarding the proposed business purpose in order to ensure that the expense is not a gift of public funds.
- e. Departments may purchase food and beverages so long as the Department Director has (A) determined, prior to making the purchase, that the expenditure (i) is for an Authorized Business Purpose as defined herein, (ii) is for a reasonable amount that does not exceed the product of the then-current U.S. General Services Administration per diem rate for Lunch for the Arlington/Fort Worth/Grapevine area multiplied by the number of full-time equivalent (FTE) City staff expected to be present, and (iii) is not for a routine or recurring meeting with City personnel, , and (B) confirmed with Purchasing that the City (i) has a specific contract for food with the chosen vendor and the expenditure is within the contract's limits; or (ii) has not spent \$100,000 or more with the chosen vendor in the current Fiscal Year for catered food or more than \$3,000 at grocery and similar stores.<sup>1</sup>
  1. Departments are required retain records demonstrating the above criteria has been met. Departments are required use the Food and Beverage Purchase Memorandum template maintained by the Purchasing Division to ensure compliance with this policy for each food/beverage purchase. Blanket Food & Beverage Memorandums are not permitted.
- f. Departmental Annual Events must comply with the following criteria:
  1. Departments may hold one annual all-staff event per Fiscal Year as employee recognition or team-building.
  2. Departmental Annual Events may be held in multiple sessions within the same month to accommodate work schedules and staff availability, but the total amount spent on food and beverages may not exceed the maximum amount allowed in this section; in such cases, Departments should include that the Departmental Annual Event will be held at different times to accommodate staff in its approval request to the ACM.
  3. The cost to the City to provide food and beverages for Departmental Annual Events may not

<sup>1</sup> Departments must check the lists published by the Pcard Administrator to determine which vendors have met the listed thresholds. Departments may check with the Purchasing Division to determine if a specific vendor has a contract with the City that allows for additional spending authority.

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exceed the then-current U.S. General Services Administration per diem rate for Lunch for the Arlington/Fort Worth/Grapevine area multiplied by the number of full-time equivalent (FTE) City staff expected to be present. (For example, if the per diem rate is \$10 and there are 100 FTE staff members present, no more than \$1,000 of City funds can be used for the food and beverages at the event.) Any amount over the maximum allowed amount must be paid using private funds.

4. City funds should generally not be used to pay for food or beverages for family members or guests of City staff. However, Departments may provide food and beverages to family members or guests of City staff at an Annual Event authorized under this subsection (f), subject to all limitations and requirements included herein.
5. Departments may provide food and beverages at an Annual Event only if the Department's Assistant City Manager finds, in addition to the Department Director's required findings in section (e), prior to the Department's making the purchase that (i) the provision of food and beverages for the Annual Event, which may include family members and/or guests, is necessary to achieve the identified Authorized Business Purpose, (ii) the amount of the purchase does not exceed the amount authorized in subsection (f)(2) (Note: family members and guests are not included in the calculation to determine the amount of City funds that can be used.), and (iii) food and beverages were not previously provided for a Departmental Annual Event or to family members or guests during the current Fiscal Year (i.e., Departments may not hold multiple Departmental Annual Events, except as allowed to accommodate staff availability and work schedules).
  - i. Departments should retain records demonstrating that the Department Director and the Department's Assistant City Manager made the findings above for each food and beverage purchase. Departments should use the Food and Beverage Purchase Memorandum template maintained by the Purchasing Division to ensure compliance with this policy. Departments should be mindful of public perception when making purchases and should avoid hosting annual events at locations that may raise concerns from the public, such as bars, breweries, and similar locations.
  - g. Departments may purchase food and beverages for non-City staff at community meetings or events so long as the Department Director has determined (A) that the purchase (i) is for an Authorized Business Purpose as defined herein and (ii) is for a reasonable amount, and (B) confirmed with Purchasing that the City (i) has a specific contract for food with the chosen vendor and the expenditure is within the contract's limits; or (ii) has not spent more than \$100,000 with the chosen vendor in the current Fiscal Year for catered food or more than \$3,000 at grocery and similar stores.<sup>2</sup>
  1. Departments should retain records demonstrating that the Department Director made the findings above for each food and beverage purchase. Departments should use the Food and Beverage Purchase Memorandum template maintained by the Purchasing Division to ensure compliance with this policy.
  - h. The City Manager's Office has determined providing food and beverages in any of the following

<sup>2</sup> Departments must check the lists published by the Peard Administrator to determine which vendors have met the listed thresholds. Departments may check with the Purchasing Division to determine if a specific vendor has a contract with the City that allows for additional spending authority.



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situations constitutes an Authorized Business Purpose:

1. annual award ceremonies, team-building events, retreats, or employee recognition events designed to increase employee morale provided each department holds no more than one annual event per fiscal year;
2. community engagement events designed to solicit feedback from the community, improve community engagement or relationships with the City, or provide updates to the community about projects or initiatives of community interest;
3. the provision of bulk coffee for City employees purchased through one of the City's coffee contracts based on the best value offered across the different contracts, which is intended to improve employee morale. This policy does not authorize the purchase of individual servings of coffee;
4. water for employees who do not have regular access to water fountains, such as field operations staff, etc.;
5. water for use during meetings during which the absence of attendees to refill containers would be impracticable or a hindrance to the efficient facilitation of the meeting as determined by the host of the meeting;
6. light refreshments such as muffins or fruit for employee engagement provided the events occur no more than once per quarter in any fiscal year and are not part of routine or recurring events, as further detailed in Section i below;
7. light refreshments such as muffins or fruit at other similar periodic, non-routine events, as further detailed in Section i below, as the Department Director deems necessary to increase employee engagement and morale;
8. strategic planning meetings involving multiple departments and other similar high-level, non-routine events that are necessary to carry out the City's mission;
9. recruitment events such as taking a prospective employee to lunch or offering refreshments at a department table at a hiring fair or event;
10. working lunches/dinners for meetings of the City Council and other appointed or elected boards and commissions, including food and beverage for required staff;
11. Purchases of food and beverages for participants in programs/activities for children and/or adults hosted by City departments in the regular course of their business activities. Examples include water dispensers in community center workout facilities, afterschool programs at community centers, summer activities, enrichment activities, or items purchased for resale from the City.
12. meals during working hours so long as the meeting must occur during the regular meal time, attendance is necessary, and business is conducted during the entire meal time. Examples include lunches provided during all-day interviews when discussing ranking, feedback, etc.
  - i. **Meals during working hours should be rare and for non-recurring purposes.** Departments should not use City funds to provide food or beverages for regular or routine working meals; and
13. emergency operations through the Office of Emergency Management.
  - i. With the exception of coffee and water under Section (h)(3) and (4) and the regularly scheduled community programs under Section (h) (11), nothing in this policy authorizes the



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purchase of food or beverages for routine and/or recurring meetings or for daily use. Examples of regular or recurring meetings include but are not limited to staff meetings and office birthday/retirement/other personal celebratory gatherings. Food & Beverage Memorandums are not required for items under Section (h) (3), (4), and (11).

- ii. Nothing in this policy authorizes the purchase of alcohol, except for alcohol purchased by the Police Department for DWI Wet Lab training purposes.
- iii. If a Department believes that the purchase of food or beverages serves a business purpose that is not listed above, the Department should not make the purchase without first receiving prior approval from its Assistant City Manager. If the Assistant City Manager has a question or concern about the purchase, he or she should confer with the City Attorney's Office regarding the proposed business purpose in order to ensure that the expense is not a gift of public funds. Following that determination, the Department must receive the necessary findings and approval from the Department's Assistant City Manager or Department Director, as required herein.

## VI. THE PROCUREMENT PROCESS

### A. SUMMARY OF THE PROCUREMENT PROCESS

- a. All Procurements begin with a requisition. This includes purchases that are exempt from the bidding process.
- b. By submitting a requisition for all purchases, including Exempt Purchase before the contract is drafted and executed, allows city management to have the assurance that funds are available for the Purchase.

### B. REQUISITIONS

#### a. Requisitions Generally

A requisition must be entered into the PeopleSoft Purchasing System by the Department to start the Procurement Process.

#### b. Purpose of a Requisition

A requisition documents the Department's requirements, fund availability and the authorization to commit budgeted funds.

#### c. Types of Requisitions

##### 1. Contract Release Requisition (Contract Release Req.)

(A) This is the only requisition type that allows the Department to actually purchase goods and/or services. The other types of requisitions start the Bid Process or start the contract development or cooperative purchase process.

(B) The Department should submit a Contract Release Requisition when there is an Approved PSK that has not expired, has spending authority available and the Department is authorized to use the PSK.

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(C) It is the Department's responsibility to verify the following before submitting the Contract Release Requisition:

- (1) the PSK is in "Approved" status,
- (2) the PSK has not expired;
- (3) the PSK has spending authority available;
- (4) the Department is authorized to use the PSK; and
- (5) the goods and/or services can be purchased under the PSK.

2. Exempt Purchase Requisition (EPR) for purchases over \$3,000

- (A) There is no requisition for emergency purchases that are exempt from competitive bidding.
- (B) Once the contract is fully executed, the Department will submit a PeopleSoft Form (New PSK from CSCO) and attach/include:
  - (1) the approved *Chapter 252 Exemption Form*;
  - (2) the M&C number if the procurement is over \$100,000;
  - (3) the CSCO number of the fully executed contract; and
  - (4) the Supplier Management identification number assigned to the Supplier by the PeopleSoft Purchasing System
- (C) Upon receiving the PeopleSoft Form, the Purchasing Division shall confirm whether all of the documents/information listed above are present. The Purchasing Division shall either:
  - (1) create a PSK, if all the documents are present, or
  - (2) deny the PeopleSoft Form and ask the Department to resubmit the Form with the required documents/information.

3. Cooperative or Inter-Local Purchase Requisition for Purchases over \$3,000 (Co-op Req)

- (A) For purchases through a Cooperative ("Co-op") Agreement or through an Inter-Local Agreement ("Inter-Local"), the Department must submit a Co-op Requisition.
- (B) A Co-op Requisition must contain the following:
  - (1) a description of the goods and/or services to be purchased, including the quantity;
  - (2) whether the purchase is a one-time purchase or an ongoing purchase;
  - (3) the name of a Co-op or city with the Inter-Local Agreement if known; and
  - (4) an attached copy of the waiver from the City Manager's Office authorizing use of the Co-op (because the Small Business Preference and Small Business Goal will not apply).
  - (5) Completed COOP checklist
2. The Co-op Requisition must be for the amount of the Purchase. Purchasing can reduce the amount of the requisition if the Department shows that the funds are needed to pay for current ongoing expenses that are the subject of the procurement.
3. Upon receiving the Co-op Requisition, the Purchasing Division shall:
  - (1) Search for the requested item/service on available and approved Co-ops;

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- (2) If the item is available from the Cooperative Agreement, the Purchasing Division shall verify the quote submitted by the department to ensure that it meets Cooperative purchasing.
  - (3) The Co-op Requisition does not apply to:
    - i. IT procurements for IT hardware, software and consultants to implement the IT hardware and software; and
    - ii. Fleet procurements that are managed by the Property Management Department (Fleets).
  - (E) For a Purchase through an Inter-Local Agreement, the Purchasing Division shall:
    - (1) Search for the requested item/service on various city and county websites which the city is able to use the agreements through an Inter-Local Agreement.
    - (2) If Purchasing is able to find an agreement, the Purchasing Division shall obtain a copy of the bid document and the contract the governmental entity has with the Supplier to ensure that the city is able to piggyback on the agreement and that it is not expired.
    - (3) If the Procurement will exceed \$100,000, the Purchasing Division shall place an M&C on the City Council's agenda in order for Council to consider the proposed purchase.
    - (4) Purchasing will work with the City Attorney's Office to determine the legal instrument to be used for the procurement.
  - (F) Beginning in March 2020, unless an exemption is granted by the City Attorney's Office, all-new cooperative and Inter-Local purchases will require an end-user agreement signed by the City and the Supplier.
  - (G) For Purchases from TXMAS or SMARTBUY, the Department shall send the PeopleSoft PO to their Buyer so that Purchasing can create a PO in the TXMAS or SMARTBUY Co-op. The failure to do this procedure could result in the City being ineligible to use TXMAS or SMARTBUY.
4. *Emergency Purchases*
- (A) There is no requisition for emergency purchases that are exempt from competitive bidding.
  - (B) Emergency Purchases must be for an urgent or emergency situation and must meet at least one of the criteria below:
    - (1) A procurement made because of a public calamity requiring immediate expenditures to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
    - (2) A procurement necessary to preserve or protect the public health or safety of the municipality's residents; or
    - (3) A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
  - (C) The Department seeking an Emergency Purchase must circulate a memo that contains all of the following:
    - (1) a description of the emergency situation and how the situation meets at least one of the



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criteria listed in Section VI.B.c.4.;

- (2) when city staff was first made aware of the emergency situation;
  - (3) an explanation of the necessity to immediately move forward with the Emergency Purchase;
  - (4) a description of how making the purchase will remedy the emergency situation;
  - (5) if it is a one-time purchase or whether the purchase/payments will be on-going and for how long; and
  - (6) the name of the anticipated Vendor and the amount of the Emergency Purchase. In the event the Vendor who provides the emergency purchase changes, the Department will provide updated Vendor information to Purchasing through an addendum signed by the Department Head.
- (D) The Emergency Purchase Memo must be signed by the individual who has personal knowledge of the emergency situation and the individual who recommends the emergency purchase and
- (1) if the Emergency Procurement is valued at \$100,000 or less, the memo must be reviewed and approved by the following in the following order:
    - i. Department personnel with knowledge of the emergency;
    - ii. the Department Director of the Department requesting the Emergency Purchase;
    - iii. the City Attorney's Office; and
    - iv. the CPO or their designee.
  - (2) if the Emergency Procurement is valued at more than \$100,000, the memo must be reviewed and approved by the following:
    - i. Department personnel with knowledge of the emergency;
    - ii. the Department Head,
    - iii. the City Attorney's Office,
    - iv. the City Manager's Office; and
    - v. the CPO or their designee.
- (E) Upon approval of the Emergency Purchase Memo, the Department can immediately work with the City Attorney's office to complete a contract, if required, to order the goods and/or services from the Supplier.
- (F) As soon as practical after completing the Emergency Purchase Memo, the Department should submit a form to have a PSK created for the emergency contract.
- (G) The Department must attach the following to the form:
- (1) Emergency Purchase Memo containing all required information and signatures; and
  - (2) The quote for the purchase or the Purchase Agreement.



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- (H) If time permits, upon receiving the form, the Purchasing Division shall create a PSK.
- (I) If the Emergency Purchase is already completed and PSK was not created, the department shall submit a Non-PO Voucher for the Supplier to be paid by attaching the fully executed Emergency Memo.
- (J) For any Emergency Purchase exceeding \$100,000, the respective department will prepare an M&C for the next possible City Council agenda to ratify the emergency purchase.

*5. Request for Solicitation Requisition (RFS Requisition)*

- (A) An RFS must be submitted in order to start the competitive procurement (bidding) process.
- (B) When the Department submits an RFS, as required by Section VI.A.a., to start the competitive bid process, the Department Head shall designate a lead contact person within the Department to act as the Bid Lead (Bid Lead). The Lead shall be a Supervisor level or higher. The Lead shall also be knowledgeable about the specifications and requirements of the procurement so that the procurement can be completed in a timely manner.
- (C) Beginning on February 1, 2020, the Department must attach the following to the RFS Requisition:
  - (1) The Request for Solicitation Form that contains:
    - i. The contact information of the Lead for the Department; and
    - ii. The Lead's Supervisor and telephone number
    - iii. Completed RFS checklist
  - (2) Detailed current specifications (in Word format) that adequately describe the goods and/or services to be procured so that the assigned Buyer and Attorney can readily tell the nature of the goods to be acquired, work to be performed, and basic terms for performance (including schedules and deadlines for both performance and payment, as applicable).
  - (3) Any pictures or diagrams of the goods to be procured;
  - (4) Any maps of where the work will be performed if relevant; and
  - (5) A draft Service Agreement prepared by the City Attorney's office if the procurement involves a service. The draft Service Agreement will be attached to the bid document. If the procurement solely involves the purchase of goods, the Standard Terms and Conditions will be attached by the Purchasing Division. If the draft Service Agreement is not attached to the RFS, the RFS will be denied and the Department should resubmit the requisition with the Service Agreement.
  - (6) FID Table for estimated annual spending.
- (D) Purchasing Division will provide examples of specifications from other cities.
- (E) Specifications shall be reviewed by the Purchasing Division to ensure competition is not precluded by overly restrictive or specific requirements.

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- (F) The requisition must be for the anticipated amount of the purchase. Failure to create the requisition for correct amount will result in the requisition being denied.
- (G) The Purchasing Division will compile the Specifications with the other Bid documents and issue the bid.
- (H) The RFS Requisition will be cancelled as follows:
  - (1) If the purchase is a one-time purchase or the first-time purchase, the requisition will be cancelled once the Department submits a new contract release requisition after the bid is completed and the PSK is created.
  - (2) If the purchase is for an on-going expense that is being paid out of the Department's current operating budget, the RFS will be cancelled or reduced after the bid is issued so that the Department can pay their current expenses.
- (I) As more described in Section X, the Purchasing Division will send a copy of the draft specifications to all Department Purchasing Representatives so that they can determine if their Department would like to participate in the bidding process and receive spending authority to purchase goods/services from the awarded vendor(s).

#### C. PURCHASE ORDERS (PO)

- a. So long as the Contract Release Requisition is error free and it is approved by the Department's Approver, the Contract Release Requisition will automatically convert into a Purchase Order.
- b. Upon the Purchase Order being created, the Department has the responsibility to dispatch the Purchase Order to the Supplier.
- c. If the Department determines that changes are needed to the Purchase Order, such as increase amount or increase quantity, the Department will submit a PeopleSoft Form requesting the change. Purchasing will complete the change within two business days of receiving the form.
- d. Once the change to the PO has been completed, the Department shall dispatch the Purchase Order to the Supplier.

#### D. RECEIVING

- a. The Department's designated Receiver shall acknowledge receipt of the goods and/or services in the PeopleSoft System as soon as practical after the goods and/or services are actually received.
- b. When Departments receive goods, Department personnel must inspect the goods and verify them against the packing slip or bill of lading to ensure the adequacy and suitability of the goods and of the supporting documents.
- c. "Receiving" the goods and/or services in the PeopleSoft System when the goods/services are not actually received or "Receiving" an amount that is higher than actually received is a violation of this Administrative Regulation and will result in the Department being included in the quarterly report to the City Manager.

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- e. Unless the City has expressly agreed to payment in advance, Department Receivers shall not acknowledge receipt of goods and/or services in the System before the goods and/or services are *actually* received. If a Department is "receiving" in the System prior to receipt because of an executed agreement requires that the City pays in advance, the Receiver shall add a note in the System indicating that actual receipt has not occurred and indicating anticipated date(s) or actual receipt; following actual receipt, the Receiver shall update the System with a note to indicate when actual receipt occurred.

#### E. VOUCHER/ PAYMENTS

- a. The City is subject to the Texas Prompt Payment Act, which requires payment within 30 days of an undisputed invoice. Departments should make every effort to create a voucher as soon as possible so that payment can be made to the Supplier within 30 days of the City receiving the invoice.
- b. If a Department receives an invoice that belongs to another Department, the Department that received the invoice shall immediately e-mail a copy of the invoice to the correct Department's Financial Services Manager or the correct Department's Assistant Directors when there is not a Financial Services Manager in the Department, so that the correct Department can make payment within 30 days of *the City* receiving the invoice.

**\*\*NOTE: When a Department receives an invoice, even if it belongs to another Department, the invoice has been *received* by the City. And if the invoice is undisputed, the city is required to pay the invoice within 30 days of the first Department received the invoice.**

- c. If the Department receives an invoice that contains mistakes, the Department should make every effort to have the mistake corrected quickly so that the invoice can be paid within 30 days of receipt. The Department should send the Supplier a list of the errors noted in the invoice and should retain a copy of the letter or e-mail sent for the applicable retention period.
- d. Departments and the Purchasing Division shall require that each invoice contain:
1. a brief description of the goods and/or services and the date(s) goods/services are provided by the Vendor;
  2. the amount due, with sufficient detail to confirm that line-item amounts correspond to those allowed under the contract;
  3. a unique and permanent invoice number that remains constant even when the invoice is resubmitted for payment; and
  4. the Purchase Order number.
- e. If any of the above information is lacking, the Supplier shall be notified in writing as soon as possible by the Department and advised that payment could be delayed until the invoice is properly completed to ensure there is no dispute regarding the goods/services for which payment is due.



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## VII. SOLICITATIONS/COMPETITIVE BIDS IN GENERAL

### A. FORMAL AND INFORMAL PROCUREMENTS

Bids are classified as follows:

1. Formal Procurement - procurements that involve an expenditure of more than \$100,000 and that must be published in a newspaper as required by and in accordance with state law; or
2. Informal Procurement - procurements that involve an expenditure of \$100,000 or less and that do not require newspaper publication. For any purchase of more than \$3,000 but less than \$100,000 state law requires contacting at least two historically underutilized businesses on a rotating basis (unless there are no such businesses in the counties in which Fort Worth is located).

### B. THE SOLICITATION (BIDDING) DOCUMENT

- a. The purpose of the solicitation document is to adequately describe the goods and/or services to be procured so that the assigned Buyer and City Attorney, and potential Suppliers can readily tell the nature of the goods to be acquired, work to be performed, and basic terms for performance (including schedules and deadlines for both performance and payment, as applicable), and contract provisions.
- b. Bid Specifications in the solicitation document must not be so restrictive as to prevent competition of Suppliers of comparable goods and services.
- c. At a minimum, a solicitation for goods and/or services should include:
  1. Scope – The description of performance, characteristics, functional needs, design features and any other requirements of the item or services to be purchased in sufficient detail to obtain the required standard of goods or services. Any specific performance requirements such as timing and turn-around for deliveries or technical requirements for products should be reflected in addition to the general description of the needed goods and/or services.
  2. Intent – An explanation of the intended use of the item/service to be purchased.
  3. Duration – A description of the desired duration of the contract, which may consist of one-time purchase, or an ongoing agreement. If an ongoing agreement, the duration includes both the initial contract period and any renewal periods.
  4. Definitions – An explanation of any technical terms used in the solicitation.
  5. Documents – A list of all documents that are required to be attached to the solicitation.
  6. Requirements – An explanation of additional required terms specific to each procurement, such as warranty information, bonding and insurance requirements, response deadlines and location information, and description of evaluation criteria and scoring.
  7. Quality Assurance and Testing – For any procurement where specific quality assurance metrics are being imposed, a description of requested product testing or in-person inspection and description of standards to be met.



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8. Delivery – A description of the required delivery location or locations, including accurate addresses and hours during which deliveries are acceptable at each location with notation of exceptions such as closures for City holidays.
9. Names of Suppliers who should be notified of the bid opportunity
10. Pre-bid Conference – A designation of the time, date, and location for potential Suppliers in an ITB or RFP to meet with Purchasing Division and Departmental staff to pose questions and seek clarification regarding the procurement. Although a pre-bid conference is not required for other types of solicitations, if one is desired, this information should also be included in the solicitation documents provided to the Purchasing Division so that it can be included in the bid document.

- d. The Purchasing Division will take the information provided above and add to it general solicitation information and will release the solicitation and ensure required publication occurs.
- e. Once the bid document for any procurement is published, the Cone of Silence is active, which is vital to maintaining the integrity of the procurement. Bidders or potential bidders who violate the Cone of Silence and contact City personnel, officials, or any agent of the City other than Purchasing staff about the bidding opportunity may be disqualified from the bidding opportunity. Departments should direct any questions or other contact to the assigned buyer and should ensure that no department personnel or City officials have any discussions with bidders or potential bidders regarding the bidding opportunity. The assigned buyer will coordinate all necessary communication, such as the pre-bid conference and responses needed for vendor questions.

#### C. PRE-BID CONFERENCE/PRE-PROPOSAL

- a. A Pre-Bid conference is a meeting open to all potential bidders and allows potential bidders to ask questions about the goods/and or services to be purchased by the City before the bid response is due.
- b. RFPs shall have a Pre-Bid Conference, if deemed necessary by the department and/or Purchasing.
- c. ITBs should have a Pre-Bid Conference unless Purchasing determines one is not required.
- d. The Purchasing Division will prepare a summary of the bid to be presented at the Pre-Bid Conference that should at a minimum contain:
  1. When the bid response is due;
  2. What documents must be submitted in the bid response; and
  3. The form of submission.
- e. The Department must have a representative at the Pre-Bid Conference to answer questions about the solicitation specifications.

#### D. EXTENDING THE BID OPENING DATE; MODIFYING BID SPECIFICATIONS

- a. Extending Date
  - i. Formal Procurements

Advertising the extension of a bid opening date for Formal Procurements must occur at least one

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week prior to the revised bid opening date so that proper notice can be given to potential bidders. If the bid opening is going to be extended, notice of the revised bid opening date must be published in the newspaper in the same manner as the original bid opening date. If notice cannot be provided as outlined above, then the only options are to either keep the original bid opening date or cancel and restart the procurement.

ii. Informal Procurements.

If an informal bid needs to be extended, the new bid opening date must be at least 3 business days later than the original date.

b. Modifying Bid Specifications—Formal Procurements

- i. Any modification that changes quantity requires the bid opening date to be extended and re-noticed. If the modification is insignificant, a two-week extension is sufficient. If the modification is significant, then the extension may need to be longer. The assigned Buyer will make the determination as to whether the change is significant and how long the extension must be.
- ii. No modification can be made to add new goods and/or services outside of the general category of goods and services included in the original solicitation document. If a change in scope is needed, the procurement may be cancelled and started over again, in the discretion of the CPO or his or her designee.

## E. SOLICITATION QUESTIONS AND ANSWERS

- a. Except for an RFQ, each solicitation issued by the Purchasing Division will contain a deadline for:
  - i. potential bidders to submit questions regarding the solicitation process or the bid specifications ("Question Deadline");
  - ii. staff to issue answers to the questions received ("Answer Deadline"), and
  - iii. interested Suppliers to submit bid responses ("Submission Deadline").
- b. Other than matters raised during the Pre-Bid Conference, all questions from potential bidders while the solicitation is pending and prior to the Question Deadline must be directed via direct message to the Purchasing Division via the City's Electronic Bidding Platform. If a potential bidder asks a Department a question about the bid while the solicitation is pending, the Department should instruct the potential bidder that they are unable to answer the question and that they should direct the question to the Purchasing Division using the method listed in the solicitation document. No response will be provided to any questions submitted after the Question Deadline.
- c. The Purchasing Division shall compile all questions and answers provided at the Pre-Bid Conference and post them as a bid addendum by the Answer Deadline.
- d. The Purchasing Division will send written questions received by to the Question Deadline to the Bid Lead to prepare written answers. The Bid Lead will send the written answers to the Buyer to be incorporated into the bid addendum.
- e. The Department must return their written answers to Purchasing at least two workdays before the Answer Deadline listed in the bid. Failure to submit approved answers two days before the Answer

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Deadline will result in an automatic one-week extension of the Submission Deadline/ Bid Opening “close date”. If the approved answers are submitted to Purchasing 3 days or more after the Answer Deadline, the bid will be extended 2 weeks or more. The actual time shall be solely determined by Purchasing to ensure that potential bidders have a sufficient time to respond to the bid.

- f. The Purchasing Division will prepare written answers to questions regarding the solicitation process, and submission requirements. The Purchasing Division is responsible for issuing an addendum containing all questions received prior to the Question Deadline and all corresponding answers no later than the close of business on the Answer Deadline. If the Answers are not received as stated above, the Purchasing Division shall issue an addendum and extend the Answer Deadline and the Bid Opening.

#### F. BID OPENING

- a. Sealed bids and proposals are not opened and read until the actual bid or proposal due date and time (“Bid Opening”) identified in the published solicitation. At Bid Opening, the names of the responding Suppliers and total bid amounts for all Invitations to Bid will be read publicly, but the actual terms of the Supplier’s responses are not made public until such time as an award recommendation is made to the City Council. Additional information may be read out loud at Bid Opening at the discretion of the CPO.
- b. Solicitation responses are to be held in strict confidence until either an award is formally recommended to the City Council or all responses are rejected. No information contained in the responses, other than the names of the submitting Suppliers, is to be released until the contract is executed, a PeopleSoft Contract is created, or all proposals are rejected.

#### G. LATE RESPONSES TO BIDS

Explicit instructions for the delivery location of the responses are contained in the solicitation document. A document received by the City in a location other than the location designated in the solicitation document and that does not arrive in the designated location prior to the deadline date and time is considered late and will not be accepted or considered. **Late responses are not accepted under any circumstances.** The date/time stamp in the Electronic Bidding Platform is the official time of record.

#### H. EVALUATION CRITERIA AND PROCESS

Following Bid Opening, responses will be reviewed and scored in accordance with the evaluation criteria identified in the solicitation document. Below are descriptions of the process for each type of evaluation criteria used in City solicitations.

- a. Lowest Responsible Bidder Criteria and Process

In a solicitation awarded on the basis of the Lowest Responsible Bidder, Purchasing shall make an initial determination as to whether each submitted bid contains all necessary information and is therefore deemed responsive. If Purchasing determines that all the required information is not included in the bid response, the response will be deemed non-responsive. Once completed, the Purchasing Division



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will recommend award to the responsive and responsible Bidder who offers the lowest price. In these solicitations, the following process will be followed:

1. The Buyer will review the bids and determine the recommended bidder;
  2. The Buyer will notify the Department of the recommended bid;
  3. The Department will either
    - (A) concur with the Buyer's recommendation, in which case the Buyer will proceed with the procurement, including preparing an M&C, if required; or
    - (B) disagree with the Buyer's recommendation, in which case the following process applies:
      - (1) The Department must, within 5 business days notify the Buyer and the Purchasing Manager that they are not in agreement with Purchasing's determination. The Department will then have 10 business days to submit to the Purchasing Manager a detailed written disqualification summary, cross-referencing the applicable specification requirements and purported deficiencies.
      - (a) If the Purchasing Manager does not agree with the Department, the CPO or the Purchasing Manager will meet with the Department to determine next steps, which may consist of rejecting all bids and restarting the procurement process; or
      - (b) If the Purchasing Division agrees with the Department, then the Purchasing Division will notify the Department of the next responsible Bidder with the lowest bid and shall restart the process under 1c. above, with that process repeating until either:
        - i. the Purchasing Division and the Department reach agreement about the proposed award; or
        - ii. No other responsive Bidders remain, in which case the Purchasing Division shall prepare an M&C to reject all bids and restart the procurement process if required.
  4. Purchasing will notify all bidders of the recommended Supplier/Vendor.
- b. Best Value Criteria
1. In a solicitation awarded on the basis of Best Value, Purchasing will make an initial determination as to whether each submitted bid contains all necessary information and is therefore deemed responsive (e.g., does it contain small business information, if applicable).
  2. Once Purchasing has determined the response is responsive, then the Evaluation Panel shall be convened to evaluate the responsive bids in accordance with the criteria (other than price) specified in the solicitation document.
  3. The assigned buyer from Purchasing is responsible for evaluating and scoring each response on the basis of price and incorporating that information in the overall scoring. For Best Value Solicitations, the process listed in Section VII.H.d. will be used after the Evaluation Panel, described in Section VII.H.c., is chosen.

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c. Evaluation Panel For Best Value

1. A group of City personnel will be designated to evaluate responses ("Evaluation Panel") and generally should meet the following criteria:
  - (A) should generally consist of no more than three to five individuals ("Panelist");
  - (B) should include a panel member or members from a Department other than the Lead Department.;
  - (C) if a supervisor and a subordinate are to serve on the same panel, no more than one subordinate to a supervisor may serve on the panel; and
  - (D) the panel should consist of similar supervisory levels.
2. Non-City employees may only serve on the evaluation panel if approved by the CPO or Purchasing Manager.
3. The panel must be approved by CPO or Purchasing Manager. If the Department disagrees with the CPO/Purchasing Manager's determination, the Department may appeal the decision by the Director submitting a memo with the Department's rationale to the CFO, whose decision is final.
4. Potential panel members are able to decline being appointed to the Evaluation panel.
5. A Potential panel member may not serve on an Evaluation Panel if he or she is disqualified. For purposes of this section, a person is disqualified if:
  - (A) the person has a conflict of interest involving the subject matter of the procurement (for example, a close relative is the owner or manager of a company that provides similar goods or services and may respond to the solicitation);
  - (B) the person's participation on the Evaluation Panel might raise concerns about the appearance of impropriety (for example, the person owns stock in a publicly traded company that provides similar goods or services and may respond to the solicitation);
  - (C) the person has a planned absence of more than a week during the anticipated evaluation period; or
  - (D) the person leaves or plans to leave City employment before the evaluation process is fully complete.
6. Each City employee who agrees to serve as a Panelist is responsible for advising the buyer if the individual is disqualified before the evaluation process begins or becomes disqualified during the evaluation process. Generally, if a Panelist becomes disqualified after the evaluation process has started, his or her scores should be disregarded, and the evaluation should continue based solely on the scores of the remaining Panelists. However, in limited instances, the disqualification of a Panelist may require the entire solicitation process to be restarted.

d. Best Value Evaluation Process

1. The Purchasing Division is responsible for managing the evaluation process. Purchasing will:

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- (A) provide electronic copies of the responses to the Evaluation Panel for their review;
- (B) prepare and distribute score sheets that accurately reflect the criteria and relative point values described in the solicitation document. The scoresheet should reflect which round of scoring and identify the date the sheet is completed.
- (C) review each score sheet to make sure that the scoring can be validated by the bid response.

## 2. Scoring

- (A) Each Panelist shall review the bid responses and write down his or her scores for each response ("First Scoring") and provide them to the assigned Buyer at least 2 days before the Evaluation Panel is scheduled to meet. The First Scoring does not include the prices.
- (B) Panelists shall not discuss the results of the First Scoring with other Panelists until the entire Evaluation Panel meets.
- (C) The Evaluation Panel and the Buyer will meet to discuss the Bidders' responses and the Evaluation Panel's recommended scores from the First Scoring. At this meeting, following discussion, each Panelist has the opportunity to amend their first score ("Second Scoring"). Scores do not have to change from the First Scoring to the Second Scoring if the Panelist believes that his or her initial scores are appropriate. At this meeting, the group will also discuss whether to conduct interviews, how many Bidders to invite for interview, and possible questions to be posed.
- (D) Buyers will evaluate the prices and score them, however in cases where the price will vary depending on the work to be performed and the Department does not know the extent of the work, pricing will be evaluated as specified in the bid document.
- (E) Using the information from the Scoring sheets and the Buyer's evaluation of proposed prices, the Buyer will create a composite score for each Bidder's response.
- (F) If interviews are to occur, the Buyer can either use the composite scoring to identify the top scoring Bidders to be invited for interview or can use the scores without considering price.
- (G) Depending on the solicitation and the results of the interviews, the Buyer may recommend requesting best and final offers ("BAFO") from all of the interviewed Bidders before rescoring occurs. If no BAFO is requested, rescoring will occur immediately following interviews, as described in the paragraph below. If BAFOs are requested, the Evaluation Panel will reconvene following receipt of Bidders' BAFOs to discuss those responses and rescore. In the event that one or more Bidders fails to submit a BAFO, the prior responses from those Bidders shall be considered to serve as their BAFOs for purposes of rescoring.
- (H) If interviews occur, each Panelist has the opportunity to amend their score following interviews and/or BAFOs, where applicable. Scores do not have to if the Panelist believes that his or her prior scores are appropriate. The Buyer will use the results to update the composite score for each Supplier response.
- (I) The buyer shall notify the Department of the highest scoring Bidder response following the final evaluation meeting as applicable to that specific procurement, so that the Department and their



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attorney may enter into negotiations with the Bidder with the highest score. This notification shall end the cone of silence for all City personnel necessary for the negotiation process for the sole purpose of engaging in negotiations with the selected Bidder. If those negotiations fail, the operating Department and Buyer may select the next highest rated Bidder for negotiations, and so on, until a recommended Bidder is agreed upon. Following agreement, the Buyer will proceed with the procurement, including placing an M&C on the Council agenda, if required. Once an intent to award is made public by the M&C being placed on a Council Agenda, the Cone of silence is no longer applicable. The Department is responsible for finalizing the contract and getting it executed.

- (J) Panelist must score in strict accordance with the evaluation criteria in the solicitation document. No one is authorized to change the weight of any evaluation criteria or to add or delete any criteria during the evaluation process.
- 3. Participating Suppliers shall be treated fairly and equitably with respect to opportunities for discussion and revision of responses.
- 4. Tie Scores: in the event that the evaluation results in two identical scores, the bidder that is a Small Business will prevail. In the event that the tie is between two Small Businesses, preference will be given to the bidder who has less city contracting experience. In the event the tie does not involve Small Businesses, the City will resolve the tie by drawing lots or flipping a coin.

#### I. WRITTEN QUOTES

Written quotes should not be obtained from Suppliers by the requesting Departments prior to the procurement process. A Department may contact Suppliers to obtain estimated prices to determine the anticipated budget for a planned requisition. In conversations with Suppliers, Departments should make clear that the City is not offering or committing to any purchase and is only seeking information for its fiscal planning purposes.

#### J. PRODUCT SAMPLES

If a product sample is required as part of a Supplier's response, the sample must be submitted to the Purchasing Division, along with the Supplier's response, by the Submission Deadline. After contract execution, the Department must notify the Suppliers who will have 10 business days to retrieve their product sample. After 10 days the product sample shall be disposed of as the Department sees fit.

#### K. Multi-Vendor Awards

- a. The Purchasing Division will notify all Vendors who responded to the bid as follows:
  - 1. If the bid was awarded through Lowest Responsible Bidder, Purchasing shall award line items to the Lowest Responsible Bidder unless the CPO or Purchasing Manager determines otherwise.
  - 2. If a Department would like to award to more than 1 Vendor, the Department must provide its rationale why more than 1 vendor should be awarded. A multi-vendor award must be structured

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so that each awarded Vendor has a reasonable expectation of actually receiving City business. The Department must provide the Purchasing Division its proposed allocation of the total spending authority. Examples of allowable allocation methods are:

- A. Divided equally among all Vendors;
- B. Divided among Vendors based on price and estimated quantity; i.e. the award of an item will be given to the Vendor who bid the lowest price for that item; or
- C. Divided among Vendors based on demonstrated capacity and anticipated quantity; i.e. Vendors who offer specific products or services that are superior or that meet a particular need (e.g. specific timing needs, such as same-day service) are awarded for that product or service.
- c. If the award is divided among multiple Vendors, each Vendor must be allocated at least 10% of the total spending authority, unless the CPO determines that a hardship would result on the Vendor.
- d. If one of the Vendors awarded no longer has a contract with the City, the "spending authority" will be divided among the remaining Vendors.

#### L. Electronic Bidding

The City may use an Electronic Bidding Platform to solicit, receive, and process any and all procurements, including procurements for Public Works Contracts, so long as the platform complies with the following:

- a. All procurements using an Electronic Bidding Platform shall include proper notice to potential bidders of how bids can be submitted and include directions or links to directions for how to submit bid responses;
- b. The City may contract with a third-party provider of an Electronic Bidding Platform so long as staff in the Purchasing Division and Information Technology Solutions Department review the capabilities and technical specifications of the platform and determine in their reasonable professional opinion that the platform has features to ensure (1) the identification, security, and confidentiality of Electronic Bids, (2) that Electronic Bids remain effectively unopened until unsealed by designated City staff, and (3) an audit trail is maintained of all key processes, including creating a bid, opening a bid, and sharing bids with others;
- c. Only Electronic Bids received prior to the published deadline shall be considered;
- d. The Electronic Bidding Platform must have a mechanism to block any additional Electronic Bids or modifications to Electronic Bids after the submission deadline;
- e. All modifications to a procurement shall be announced in an addendum or other similar method published through the applicable Electronic Bidding Platform;
- f. Electronic Bids shall be opened publicly at the time and place designated in the bid procurement document;
- g. The Chief Procurement Officer or their Designee must be able to verify when Bid information and other relevant data are received in order to address any bid protests due to technical issues encountered in submitting Electronic Bids;

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- h. The Electronic Bidding Platform vendor may not impose any charge on potential bidders seeking to sign up on the Electronic Bidding Platform in order to view and participate in the City's solicitations;
- i. Electronic Bids and related documents must be able to be transmitted securely and confidentially through bid encryption or other protection measures;
- j. Each bidder must receive prompt confirmation of the electronic filing of the bidder's Electronic Bid;
- k. Each bidder must be able to submit, resubmit, replace, or withdraw the bidder's filed Electronic Bid prior to the bid submission deadline;
- l. Each Electronic Bid submitted in response to a Formal Procurement or a procurement for a Public Works Contract must remain inaccessible or unreadable to all others except for the bidder prior to the time Bids are opened. This restriction must apply to City staff as well as other bidders.
- m. (i) Electronic Bid submission is subject to electronic interface latency, which can result in transmission delays; (ii) bidders assume the risk of late transmission/ submission; and (iii) the City shall not be held liable if an interested bidder is unable to submit a complete Electronic Bid prior to the published deadline due to transmission delays or any other technical issues or obstructions. Bidders are strongly encouraged to submit bids early and to give adequate time in the event an issue arises.
- n. If, upon being opened, an Electronic Bid is unreadable to the degree that material conformance to the requirements of the procurement specifications cannot be ascertained, such Electronic Bid will be rejected without liability to the City, unless such bidder provides clear and convincing evidence (a) of the content of the Electronic Bid as originally submitted and (b) that the unreadable condition of the Electronic Bid was caused solely by error or malfunction of the Electronic Bidding Platform. Failure to scan a clear or readable copy of a bid into the system does not constitute and shall not be considered an error or malfunction of the Electronic Bidding Platform. Bidders are encouraged to fully review each page of every document within their bid prior to submitting to ensure all documents are clear, legible, and complete;
- o. Any tampering with the Electronic Bidding Platform, the electronic bidding process, or Electronic Bid documents by an interested bidder shall result in the Electronic Bid of such bidder being rejected; and
- p. All bid requirements in the City's Purchasing Administrative Procedure that do not conflict with the requirements of these Rules shall remain enforceable, including compliance with small business program requirements.

## VIII PROTESTING A BID AWARD

### A. BIDS OVER \$100,000

- a. At least 15 business days before the M&C recommending award of a contract over \$100,000 is planned to be presented to the City Council, the Purchasing Division will notify all Bidders who submitted a bid which vendor is being recommended for award. The notification will be made via the electronic bidding platform's messaging system.



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- b. A Bidder who submitted a bid, but is not being recommended for award may submit a bid protest if the Bidder believes that there has been any impropriety or incorrect evaluation performed during the process.
- c. The Bidder must deliver its bid protest in writing to the Purchasing Manager. The protest must be received by the Purchasing Division within 4 business days of the Bidder being notified of the recommended bid award. In order to ensure that the bid protest is actually received, the protest cannot be sent to the Purchasing Manager by e-mail.
- d. Upon receiving a bid protest, the Purchasing Manager, or designee, shall engage in preliminary discussion with the protesting bidder to gather information and attempt to resolve the protest.
- e. The Purchasing Manager or designee will issue a decision in writing within 3 business day of receiving the bid protest. The decision shall state the reasons for the decision and inform the protesting bidder that it can have the Purchasing Manager's decision reviewed by a panel consisting of an Assistant City Attorney, a representative of the operating Department, and the CPO.
- f. If a Bidder wants a panel review, the Bidder must submit a message via the messaging center within the electronic bidding platform within 2 business days of receiving the Purchasing Manager's written decision.
- g. The panel will provide the protesting Bidder its determination regarding the protest within 3 business days of the panel convening.
- h. If the panel makes a decision with which the protesting bidder does not agree, the protesting bidder may attend the City Council meeting at which the recommended award is to be presented to the City Council for consideration and make known his/her concerns in accordance with the City Council's Rules of Procedure.
- i. At the discretion of the Assistant City Manager, an Informal Report may be provided to the Mayor and City Council prior to the City Council meeting. This report will include the protester's concerns, the attempts of City staff to resolve those concerns and the Purchasing Manager's recommended action.
- j. The operating Department should avoid involvement in the resolution of the protest except as noted in above. Questions from protesting bidders should be referred to the Purchasing Manager or CPO.

## B. REQUESTS FOR PROPOSALS

Due to the subjective nature of evaluating responses from Requests for Proposals, a bidder who submitted a proposal may not protest the City's selection of award in a Request for Proposal.

## IX. TYPES OF COMPETITIVE PROCUREMENTS

**NOTE:** As stated earlier, state law requires the purchase of goods and/or services through a competitive bid process, unless the purchase is exempt from the competitive bidding

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process.

**PURCHASING WITH A PCARD IS NOT A PROCUREMENT METHOD, IT IS A METHOD OF PAYMENT.**

**A. REQUEST FOR QUOTES (RFQt)**

- a. An RFQt is the solicitation document used for Informal Procurements.
- b. Because an RFQt is an informal bidding process, the PSK or PSKs that results from the bid **can never exceed \$100,000.**
- c. As required under Texas Law, for any procurement greater than \$3,000, the department shall check the Texas State Comptroller's Office website to determine if there are Historically Underutilized Businesses (HUB) in Tarrant, Wise, Johnson, Parker, or Denton County who can provide the goods and/or services being procured. If there are Suppliers on the HUB list that provide the needed goods or services, the requestor must send the RFQt to at least two of the Suppliers on the list on a rotating basis. If the Texas Comptroller's list does not have a HUB in the above-listed counties, then the City has complied with State Law, and no further searching is required.
- d. The informal bid documents should also be sent to all Bidders who have registered with the City with the commodity code that is being procured.
- e. Evaluation of responses received must apply the Small Business Preference process outlined above in Section III.C.b.
- f. Tie Bids: in the event that the RFQt results in two identical low bids, the bidder that is a Small Business will prevail. In the event that the tie is between two Small Businesses, preference will be given to the bidder who has less city contracting experience. In the event the tie does not involve Small Businesses, the City will resolve the tie by drawing lots or flipping a coin.
- g. If no responses are received by the closing date specified on the RFQ solicitation documents, the department may engage in direct contact with a Vendor capable of providing the good/service.
- h. The Purchasing Division shall maintain required procedures for RFQts, including whether Departments are authorized to perform their own RFQts or if RFQts must be handled by the Purchasing Division. Departments should review the information on the Purchasing Teams Channel for specific instructions on how to request or process an RFQt.

**B. INVITATION FOR BIDS (ITB)**

- a. An ITB is the solicitation document used for procurements for goods and/or services over \$100,000 when the small business programs referenced in Section III.C. do not apply.
- b. An ITB is a Formal Procurement that must follow the procedures set forth in Chapter 252 of the Texas Local Government Code.
- c. Notice of the ITB Public Bid Opening must be published in a Fort Worth newspaper **at least once a week for at least two consecutive weeks.**

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### C. REQUEST FOR PROPOSALS (RFP)

- a. An RFP is the solicitation document that is used when Suppliers are being asked to propose the means and methods of the goods and/or services requested. In addition, the City can use the RFP for the purchase of high technology items or insurance.
- b. All RFPs shall be evaluated on the basis of Best Value. The City is not compelled to select the provider with the lowest price, but to ensure proper use of taxpayer funds, price must always be taken into consideration. The evaluation criteria must be identified in the RFP solicitation document, including each criteria's percentage of overall scoring.
- c. Price and all other terms may be negotiated prior to contract award.
- d. All RFPs must be out for bid a minimum of 14 days, regardless of dollar amount.
- e. The City must comply with the City's Small Business Procurement Ordinance.

### D. REQUEST FOR QUALIFICATION (RFQual)

- a. An RFQual is a process used when soliciting any of the Professional Services that are listed in 2254 of the Texas Government Code.
- b. The following Professional Services must be procured in accordance with Chapter 2254 of the Texas Government Code. "Professional services" means services:
  1. within the scope of the practice, as defined by state law, of:
    - (A) accounting;
    - (B) architecture;
    - (C) landscape architecture;
    - (D) land surveying;
    - (E) medicine;
    - (F) optometry;
    - (G) professional engineering;
    - (H) real estate appraising; or
    - (I) professional nursing
  2. provided in connection with the professional employment or practice of a person who is licensed or registered as:
    - (A) a certified public accountant;
    - (B) an architect;
    - (C) a landscape architect;
    - (D) a land surveyor;



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- (E) a physician, including a surgeon;
- (F) an optometrist;
- (G) a professional engineer;
- (H) a state certified or state licensed real estate appraiser; or
- (I) a registered nurse.

- c. When procuring Professional Services, the City must first select the most qualified provider based upon demonstrated experience and qualifications.
- d. Once a provider is selected a reasonable fee can be negotiated with that provider. If the City is unable to negotiate an agreement with the most qualified provider, the City is able to end negotiations and select the next most qualified provider and start negotiations for an agreement for a fair and reasonable price.
- e. The City Attorney's Office determines whether particular professional services are governed by Chapter 2254 of the Texas Government Code and must be acquired through an RFQ process.
- f. A Department seeking to obtain services that are subject to 2254 must contact at least two firms or individuals who provide work in that field and must either contact references, review examples of past work product, or conduct similar reviews to determine the firm/individual's level of qualification.
- g. Before a PSK can be created, a Department must document the communication with the two firms or individuals through a memo to show that the selected provider is the most qualified based upon demonstrated experience and qualifications.

#### E. PROCUREMENT OF OTHER PROFESSIONAL SERVICES

- a. Except as provided in IX.E.(b), a Department seeking professional services not listed in Section IX.D shall follow the procedures in Section V. B. to procure the service.
- b. The City Attorney's procurement of legal services from an individual attorney or a Law Firm is deemed to be Professional Services and shall only require the approval of the City Attorney. When Chapter 6 Section 3 of the City Charter Applies, City Council approval shall also be required.

### X. CONDUCTING CITY-WIDE BIDS

#### A. REQUESTING RESPONSE FROM DEPARTMENT REPRESENTATIVE

For a Request for Solicitation for an ITB that is not for a city-wide agreement, Purchasing shall send an email notification to all Department Bid Representatives requesting that the Departments interested in using the goods or services being sought submit and RFS Requisition.

#### B. TIMELINE FOR DEPARTMENT REPRESENTATIVE TO RESPOND

- A. If the Department's Designated Bid Representative determines that the Department should participate in the bid or that a change in spending is needed, the Representative should respond to

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the notification and (1) submit a Request for Solicitation Requisition by 5:00 pm on the 10th business day after receiving the notification. If the Department has not responded by the 10<sup>th</sup> business day, it will be deemed that the Department does not need to participate in the bid. If the Department Representative does not notify Purchasing by the deadline, the Department will not be awarded any spending authority to purchase from the Vendors that are ultimately awarded through the bid process.

- B. The Department requesting the largest spending authority purchase will be deemed the Lead Department. The Lead Department shall be responsible for the negotiations and final execution of the contract, unless otherwise determined by Purchasing.

#### C. SPENDING CONTROLS FOR THE DEPARTMENTS THAT PARTICIPATE IN THE BID

When more than one Department participates in a bid and needs spending capacity with one or more of the awarded vendors, Purchasing will create one PSK, in the discretion of the CPO, and will ensure that appropriate spending controls are in place to monitor Departmental spending allocations. No Department shall use more than the amount it requested for a particular vendor or contract without prior approval from the other participating Department(s) to utilize all or a portion of its allocated funds, and if such use does occur, the Departmental Requestor may be subject to disciplinary action and/or loss of their Requestor role.

#### D. DEPARTMENTS THAT DO NOT PARTICIPATE IN THE BID

If a Department fails to submit an RFS by the 10<sup>th</sup> business day after the email notification is sent to the Bid Representatives and then later determines that it needs to purchase goods and/or services that were part of the bid, the Department can either:

- 1) Seek written permission from a Department that has spending authority available to agree to have its spending authority reduced so that "new" Department can have spending authority with the amount that was taken from the awarded Department. Once the Department has the written permission, the Department will submit a PeopleSoft Form to amend the PSK and attach the written permission; or
- 2) Submit a Requisition for Solicitation and request a new bid.

### XI. THE PEOPLESOFT CONTRACT (PSK)

#### A. PURPOSE AND PROCESS FOR CREATING A PSK

- a. The Purpose of the PSK is to ensure that:

1. the city is paying the correct Supplier for the goods and/or services under contract for the agreed upon price; and
2. the city does not exceed the spending authority that has been approved to be spent with the Vendor.

- b. A PSK is created after:

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1. A successful bid event and council approval if necessary;
2. A PeopleSoft Form submitted by the Department with a fully executed CSCO agreement; or
3. A renewal signed by all parties.
- c. The terms in the PSK must match the CSCOs or the bid terms. If a Department has a fully executed CSCO and needs an amendment to the PSK, the CSCO must be amended and fully executed before the PSK can be amended to match the CSCO.
- d. If a CSCO agreement is expired, a PSK will not be created.

#### B. INCREASES TO THE PSK

- a. For any contract that was subject to mandatory bidding under Chapter 252, the spending authority amount (authorized by City Council or in the initial PSK) in the original PSK may not be increased by more than 25% due to an increase in the amount of goods or services needed. Notwithstanding the above, a PSK or group of PSKs that resulted from an RFQ shall never exceed \$100,000.
- b. A PSK based on a CSCO will only be amended once the CSCO amendment to increase the amount is fully executed.
- c. For PSKs that are exempt from bidding, there is no limit on the increase, however, if the increase exceeds \$100,000, City Council approval must be obtained.

#### C. RENEWAL OF A PSK

- a. For PSKs in which there is not a CSCO, the Purchasing Division is responsible for completing all of the necessary documents to renew the PSK.
- b. For PSKs in which there is a CSCO, the Department that recommended the contract on the signature page is responsible for completing all of the necessary documents to renew the PSK.

#### D. ASSIGNMENT OF A PSK

- A. When a Contract Assignment is needed, the Department shall send the Supplier an email requesting the Supplier send the following information to Vendor Management:
  - a. A letter requesting the assignment on Company letterhead signed by an Officer of the Company;
  - b. An explanation of the nature of the assignment (name change, acquisition, merger, etc.);
  - c. Effective date of the assignment;
  - d. A copy of legal document that shows that the assignment, acquisition, merger, or purchase has taken place. The document must include a preamble and, signature and section that states assets/contracts have been assigned to new supplier and must be signed by the parties to the assignment;
  - e. Copy of the legal document filed at the court/county clerk's office reflecting the name change;
  - f. Completed W-9 request for taxpayer identification number; and
  - g. Consent of Assignment signed and notarized. Vendor Management will provide the draft document. This document should include any contract numbers and City Secretary numbers associated with the existing supplier.



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- B. The new Supplier must register on the City of Fort Worth Supplier Portal. This will allow Vendor Management to verify whether the name and tax id number with the IRS.
- C. Once the correct documents have been received from supplier, Vendor Management will prepare a routing memo and route for City Signatures: City Attorney's Office, Asst. City Manager, Purchasing Assistant Director and City Secretary (if the contract is a City Secretary contract)

#### E. CATEGORIES AND ITEMS ON THE PSK

- A. All PSKs list the goods and/or services that are available to be purchased as "items" or the goods and/or services can be purchased under "categories". Creating a PSK with only items supports the city's goal of only purchasing items under the contract for the contracted price.
- B. Beginning on January 1, 2020, unless determined otherwise by the CPO or the Purchasing Manager, for all new bids for only goods and for all purchases under a Co-op, the PSKs should only contain "items" and no categories. Categories should only be in the PSK when services are being purchased. Handling and Delivery are considered goods and not services.
- C. When renewing a PSK, as Purchasing is able, Purchasing shall create the renewal of goods-only PSKs with only items and no categories.
- D. Categories can be considered by the CPO upon receipt of a memo with the Department Director and Assistant City Manager's approval for contracts that exceed 100 line items or have commodities with volatile pricing. An audit plan for the department to confirm contract pricing must be established within the memo and conducted by the department.

## XII. CONTRACT MANAGEMENT

### A. PURPOSE AND DESIGNATION

- a. The purpose of having a Contract Compliance Manager on all contracts on file with the City Secretary's Office is to ensure that the contract is properly managed.
- b. The Department Head shall assign a Contract Compliance Manager to each CSCO. The Contract Compliance Manager should be a supervisor level or higher and should have the experience to serve as the city's Contract Compliance Manager.

### B. RESPONSIBILITIES OF THE CONTRACT COMPLIANCE MANAGER

- a. The Contract Compliance Manger shall be responsible for renewing the contract before the contract expires so there is not a gap in service to the City. The renewal duties include, but are not limited to:
  1. Obtaining a renewal document from the City Attorney's Office when needed;
  2. Sending the renewal document to the Supplier for signature;
  3. Routing the contract through the City for signature; and
  4. Submitting a PeopleSoft Form to Purchasing so that a new PSK can be completed.

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- b. The Contract Compliance Manager is responsible for completing contract amendments when necessary. The Contract Amendment duties include, but is not limited to:
  - 1. Serving as the city's representative when negotiating a contract amendment;
  - 2. Working with the City Attorney's Office to draft an amendment;
  - 3. Recommending the amended terms to the Department senior staff;
  - 4. Once approved, routing the amendment to the Supplier for signature;
  - 5. Obtaining City Council approval in a timely manner, if needed;
  - 6. Routing the contract through the City for signature; and
  - 7. Submitting a PeopleSoft Form to Purchasing requesting to amend a current PSK.
- c. The Contract Compliance Manager is responsible for ensuring that there are sufficient funds available under the PSK as needed by the authorized Departments. In instances where additional funds are needed, the Contract Compliance Manager should work with Purchasing to determine if the contract can be amended increased the amount or whether a new bid will need to be completed.
- d. If there are issues with a Supplier, the Contract Compliance Manager shall work with the Department's City Attorney to determine the best course of action in order to address the situation. Purchasing will assist when requested.

#### C. ACCESS TO PEOPLESOFT PURCHASING

In order for the Contract Compliance Manager to be able to fully perform the required duties, Purchasing recommends that the Contract Compliance Manager have a role in PeopleSoft Purchasing. If the Contract Manager does not have a Requestor, Receiver, Voucher or Approver role, the Contract Compliance Manager should consider taking the Inquiry Access Training and pass the required test to gain access to PeopleSoft Purchasing.

### XIII. PAYMENT TO SUPPLIERS

#### A. PAYMENT PROCESS

- a. A person must be designated and authorized to have the "Voucher" role in the PeopleSoft Purchasing System in order to create vouchers for payment in the System.
- b. All Payments through the PeopleSoft Purchasing System are processed through a:
  - 1. Regular Voucher
  - 2. Non-PO Voucher; or a
  - 3. Single Supplier Voucher.
- c. Payments to Vendors are made by:
  - 1. ACH;

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2. P-Card;
3. Check; or
4. Wire, if deemed appropriate by the City Treasurer

## B. REGULAR VOUCHER

A regular voucher results from an approved Contract Release Requisition that was converted to a Purchase Order. Once the goods and/or services have actually been received and formally "received" by the Department's Receiver in the PeopleSoft System, the Voucher should be created so that the Supplier can be paid within 30 days of the City receiving the invoice

## C. NON PO VOUCHER

- a. A Non PO Voucher should be used to pay a registered Supplier when there is not a PSK because the procurement could not have resulted from a competitive procurement or was the subject of an Exempt Procurement. Examples of payments eligible for payment with a Non PO Voucher include refunds, settlement agreement payments, conference payments, payments to governmental entities, and land purchases.
- b. A Non PO Voucher with a Non-PO Memo (described in subsection c. below) attached should be submitted to pay the Supplier in the event that goods and/or services are provided to the City and:
  1. The combined city-wide spending with one Supplier in a Single Fiscal Year is more than \$3,000 (use Z\_AP\_PAYMENTS\_BY\_SUPPLIER to verify Combined city-wide spending);
  2. A PO was not created before the PSK expired;
  3. A PO was not created because there was not enough spending authority available on the PSK for the purchase; or
- c. A Non-PO Memo must contain the following:
  1. How the purchase occurred without a PO being issued;
  2. Why the Department staff did not follow the correct purchasing process and ensure that a PO was issued before the purchase was completed;
  3. How Department staff will be trained so that the Department does not repeat the action that is the subject of the memo. is action is does not happen in the future; and
  4. The memo must be signed by the Assistant City Manager or Acting Assistant City Manager if the combined city-wide spending with one Supplier in a Single Fiscal Year is more than \$3,000; all other memos may be signed by the Department Director.
- d. If more than \$100,000 is spent and there is not an M&C authorizing the expenditure, the Department shall be responsible for placing a ratification M&C on the Council's agenda.
- e. Department Directors are responsible for ensuring that each Non PO Voucher for their Department is properly reviewed, approved, and contains the necessary information to validate that payment is due and owed. To effect this, each Department is required to create a policy that ensures the following are completed prior to the voucher being entered into PeopleSoft:
  1. Reviews are done to confirm (1) payment is required, (2) the amount is correct and that there is



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budget for the payment, and (3) all necessary authorizations have been granted for the payment including City Manager and City Council approval, when applicable; and

2. That each Non PO Voucher receives the following approvals:
  - a. Level 1 approval- approval by a staff member with knowledge of the basis for the payment. This person should include the necessary paperwork to validate the payment is necessary; for payments of goods or services, this should include an invoice and proof of receipt;
  - b. Level 2 approval - approval by a supervisor of the Level 1 approver. This person should review all documents to ensure that the payment is necessary and that all needed information is attached to the Voucher.
  - c. Level 3 approval- For each Non-PO Voucher that is \$100 or more, the Voucher must also be approved by an Assistant Director or the Director for the Department. Level 3 approval will fulfill the requirement for both Level 2 and Level 3 approvals.
  - d. The approvals required herein do not have to match the approvals provided in the PeopleSoft System, however, prior to routing a voucher for approval in PeopleSoft, the necessary approvals must have been obtained.
  - e. Departments should retain evidence of the required approvals for each payment made through a Non PO Voucher and must include that information with the voucher in PeopleSoft for audit purposes unless the department receives a specific exemption from this requirement from the CPO.
3. Departments are required to submit their policy regarding Non PO vouchers to the Purchasing Department on an annual basis.
4. Departments should review all Non PO Vouchers processed for their Department no less frequently than Quarterly to help prevent the potential for fraud.

#### D. SINGLE SUPPLIER VOUCHER

- a. A Single Supplier Voucher should only be used to pay a non-registered Supplier when there is not a PSK because the procurement **could not have** resulted from a competitive or exempt procurement.
- b. Types of payments eligible for payment through Single Supplier Voucher are:
  1. refunds;
  2. settlement agreements made to a payee other than an attorney or law firm;
  3. payments to governmental entities;
  4. payments to Mediators
  5. payments to Civil Service Hearing Officers and
  6. payments to Special Commissioners
- c. If a Department would like to submit a Single Supplier Voucher for a type of payment that is not listed in section XIII.D.b. above, the following must occur:
  1. The department must submit a written request to the AP Supervisor or AP Coordinator;
  2. The AP Supervisor or AP Coordinator must recommend approval to the City Treasurer or designee; and

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3. The City Treasurer or designee must approve the request.
- d. All Single Pay Vouchers that do not meet the requirements in XIII.D. b or c. shall be denied.
- e. If the Single Pay Voucher is denied, the payment can be made through a non-PO Voucher once:
  1. The non-registered Supplier registers as a Supplier in the City's Supplier portal found at Purchasing Division | City of Fort Worth, Texas and the information is verified by Vendor Management; or
  2. The Department registers the Supplier. In order to perform the registration, the Department must have a recent copy of the Supplier's W-9 and the Supplier's legal name. Once the Supplier's registration is verified, the payment can be made with a non-PO Voucher.\*
- f. Department Directors are responsible for ensuring that each Single Supplier Voucher for their Department is properly reviewed, approved, and contains the necessary information to validate that payment is due and owed. To effect this, each Department is required to create a policy that ensures the following are completed prior to the voucher being entered into PeopleSoft:
  1. Reviews are done to confirm (1) payment is required, (2) the amount is correct and that there is budget for the payment, and (3) all necessary authorizations have been granted for the payment including City Manager and City Council approval, when applicable; and
  2. That each Single Supplier Voucher receives the following approvals:
    - a. Level 1 approval- approval by a staff member with knowledge of the basis for the payment. This person should include the necessary paperwork to validate the payment is necessary; for payments of goods or services, this should include an invoice and proof of receipt;
    - b. Level 2 approval - approval by a supervisor of the Level 1 approver. This person should review all documents to ensure that the payment is necessary and that all needed information is attached to the Voucher.
    - c. Level 3 approval- For each Single Supplier Voucher that is \$100 or more, the Voucher must also be approved by an Assistant Director or the Director for the Department. Level 3 approval will fulfill the requirement for both Level 2 and Level 3 approvals.
    - d. The approvals required herein do not have to match the approvals provided in the PeopleSoft System, however, prior to routing a voucher for approval in PeopleSoft, the necessary approvals must have been obtained.
    - e. Departments should retain evidence of the required approvals for each payment made through a Single Supplier Voucher and must include that information with the voucher in PeopleSoft for audit purposes unless the department receives a specific exemption from this requirement from the CPO.
  3. Departments are required to submit their policy regarding Single Supplier Voucher to the Purchasing Department on an annual basis.
  4. Departments should review all Single Supplier Voucher processed for their Department no less frequently than Quarterly to help prevent the potential for fraud.

**\*Note: Departments should only register the supplier when the Supplier will not register and it is "a one-time payment".**

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## XIV. SURETY BONDS

### A. TYPES OF BONDS

Suppliers may be required to provide the City with certain surety bonds. There are four types of surety bonds used with City contracts for goods and/or services: Bid Bonds, fidelity bonds, payment bonds and performance bonds. The City will only accept sureties duly qualified and authorized by the State of Texas as corporate sureties to act as bonding entities. **Personal sureties are unacceptable.**

### B. BID BONDS

- It is the City's option whether to require Suppliers to provide the City with a Bid Bond along with their submissions. As an alternative, the City may accept a cashier's check, with the City named as payee, to be held in escrow until the successful Supplier signs the contract.
- The Bid Bond or cashier's check must be in an amount that is equal to at least five percent (5%) of the total amount bid by the Supplier.

### C. FIDELITY BONDS

Fidelity bonds provide coverage for the risk of loss associated with larceny, theft, embezzlement, forgery, misappropriation or any other act of fraud or dishonesty committed by an employee or officer of a contractor handling funds for the City. These bonds and bond amounts may be required at the option of the City.

### D. PAYMENT BONDS

- Payment bonds are required for Public Work Contracts valued in excess of \$25,000 and must be written for one hundred percent (100%) of the total contract price. The bond is for the protection of companies performing work as subcontractors or suppliers for the prime Supplier/contractor and for the protection of the City, which is liable for payment to subcontractors if no payment bond is obtained.
- If the City fails to obtain a payment bond from the prime contractor covering contracts in excess of \$25,000, the City is subject to the same liability as that of a surety if a valid bond had been issued. The claimant is entitled to a lien on funds due the contractor.

### E. PERFORMANCE BONDS

- A performance bond is required for all Public Work contracts valued in excess of \$100,000.
- Performance bonds must be written for one hundred percent (100%) of the total contract price. These bonds are solely for the protection of the City to ensure Public Works are actually completed.
- In the event of a Supplier default under contract terms and conditions, a surety firm may hire an alternate contractor to complete the work or allow the City to select another contractor and pay the difference between the first contractor's price and the new contractor's price, or pay the original contractor, whichever is required to complete the project.



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#### F. ADDITIONAL REQUIREMENTS

- a. Payment bonds and performance bonds must be submitted to the City prior to Suppliers commencing work on projects where these bonds are required.
- b. The City may require payment or performance bonds if a contract is less than \$25,000.
- c. There are no statutory requirements for bonds to cover contracts for goods and services that do not meet the definition of Public Work Contracts; however, good business practice dictates that whenever the City enters into a contract for the purchase of a product, system or service in which the product, system or service will be of little value to the City until it is complete and progress payments are made and the final item will cost over \$100,000, performance and payment bonds are required. The CAO will advise as to whether a payment or performance bond is legally required; the City Manager's Office makes the final determination on whether to require these bonds for non Public Works Contracts.

### XV. INSURANCE

- A. The Department and/or Purchasing Division should contact the Risk Management Division to seek advice and recommendations regarding the types and amounts of insurance coverage that should be required based on the specific nature of the goods and/or services being procured and work being performed. Such requirements may include commercial general liability insurance and any other lines of coverage appropriate to the transfer of risk.
- B. Whenever the City seeks to engage an outside party, contractor, consultant, Supplier or concessionaire for goods or services, the solicitation documents should clearly indicate the indemnification, hold harmless and defense clauses in favor of the City which will be included in a final contract or terms and conditions.
- B. Contractual agreements to be executed by the awarded Supplier must contain a provision that identifies the allocation of risk for the project as between the City and the Supplier and should generally transfer all appropriate risks to the Supplier. Because a Supplier may not have the financial resources to pay the costs of the risks for which the Supplier is responsible, the City requires that insurance be purchased and maintained by the Supplier.
- E. Workers' Compensation Insurance – By State law, contractors and subcontractors hired for building and construction projects must always provide Workers' Compensation Insurance for their employees **regardless of the cost of the project**. Workers' Compensation Insurance is not required if the contractor has no employees or subcontractors, but in such cases, the Supplier must complete an Affidavit verifying the lack of employees/subcontractors. City practice is to include Workers' Compensation Insurance in service contracts. Any request to remove Workers' Compensation Insurance from a contract must be reviewed and approved by the Risk Management Department before it can be removed from the contract

### XVI. Attachments

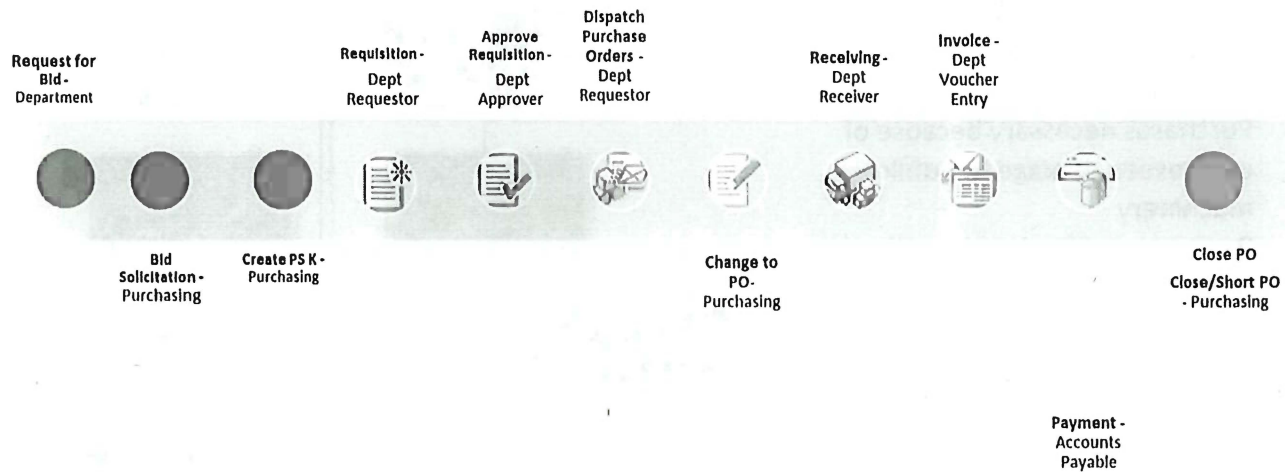
1. PROCUREMENT PROCESS
2. PURCHASING DECISION TREE

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3. BASIC PROCESS FOR BIDS
4. PROCESS FOR EXEMPT PURCHASES
5. PROFESSIONAL SERVICES PURCHASING PROCESS- CHAPTER 2254 PROFESSIONAL SERVICES AND NON-2254 PROFESSIONAL SERVICES PROCESS

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## PROCUREMENT PROCESS



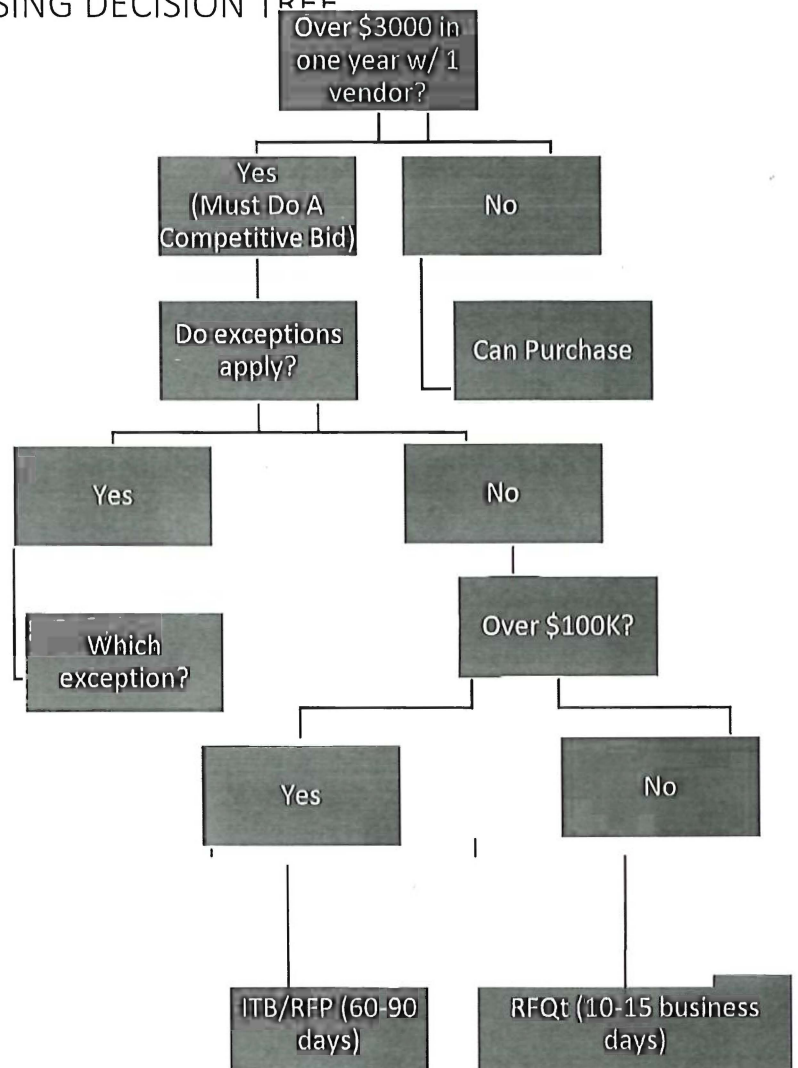


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## PURCHASING DECISION TREE

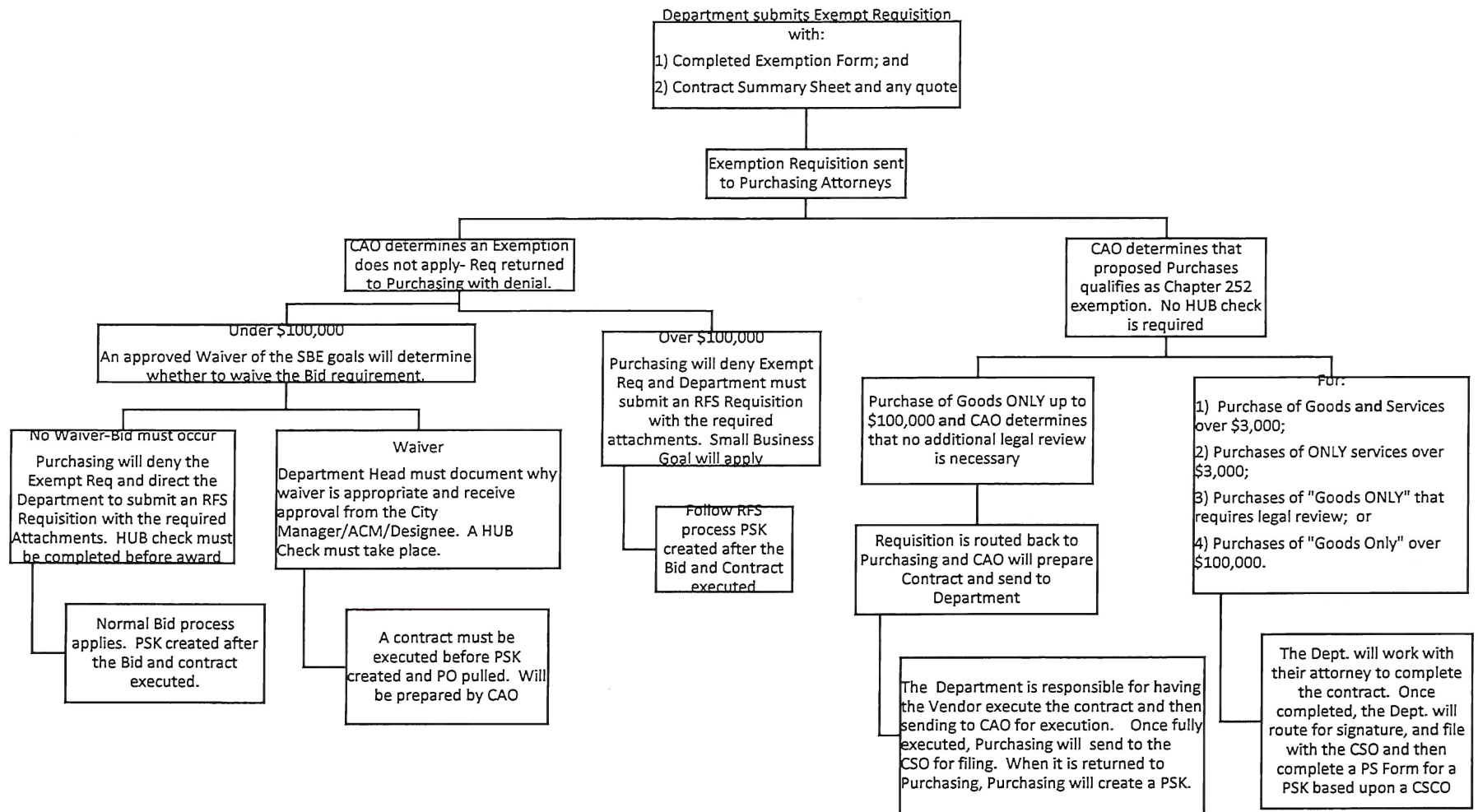
Exception to the bidding requirement:

- Emergency Purchases
- Purchases necessary to protect public health or safety
- Purchases necessary because of unforeseen damage to public machinery
- Personal, professional, or planning services**
- Sole Source Purchases
- Purchase of land
- Purchase of library materials
- Services performed by blind or severely disabled persons
- Goods for resale
- Purchase of electricity
- If approved waiver is obtained,**
- Purchases under a Cooperative Agreement or Inter-local Agreement





# PROCESS FOR EXEMPT PURCHASES





## PROFESSIONAL SERVICES GOVERNMENT CODE 2254

A procurement for professional services is exempt from the requirements of Chapter 252 but some Professional Services (listed below) must be procured in accordance with Chapter 2254 of the Texas Government Code.

The "Professional Services" subject to Chapter 2254 are those:

- Within the scope of the practice, as defined by state law, of:
  - Accounting
  - Architecture
  - Landscape Architecture
  - Land Surveying
  - Medicine
  - Optometry
  - Professional Engineering
  - Real Estate Appraising
  - Professional Nursing

Provided in connection with the professional employment or practice of a person who is licensed or registered as:

- Certified Public Accountant
- Architect
- Landscape architect
- Land surveyor
- Physician, including a surgeon
- Optometrist
- Professional engineer
- State certified or state licensed real estate appraiser
- Registered Nurse

