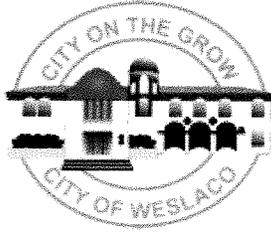


City of Weslaco



Purchasing Policy

Adopted June 7, 2016



CITY OF WESLACO MANAGEMENT LETTER

FROM: Mike Perez, City Manager
TO: All City Departments
SUBJECT: Purchasing Policy
DATE: June 7, 2016

The Purchasing Office provides assistance to all departments in the City Organization by securing for them the best material or service of the right quality at the best price. This objective can be accomplished if all departments are familiar with a set purchasing policy observing Texas statues and set forth by the City of Weslaco Commission.

Each Department Head will be held accountable for the proper administration of the Purchasing Policy within his/her department. Internal controls must be established within each department to avoid abuses of the policy.

Adhering to the Purchasing Policy can save the City both time and money. With adequate planning by all departments in compliance with all the rules and regulations, exceptions to the Purchasing Policy as outlined in this manual should be infrequent.

The Purchasing Policy must serve as a reference and guide so that the purchasing operations of the City will be consistent.

The Purchasing Office has the responsibility and the authority to reject purchase order requests that violate the Purchasing Policy or State Law. In addition, the Purchasing Office has the responsibility to question purchases which appear to violate the law, or create an appearance of conflict.

The Finance Department serves as a final check on the availability of funds and the appropriate funding source on all purchases. Interpretation of the Purchasing Policy will be brought to the attention of the Finance Department / Purchasing Office for resolution. The City Manager reserves the right to make any final determination of Purchasing Policy conflicts inconsistent with State Law.



Mike R. Perez, City Manager



Maria C, Barrera, Finance Director

**THE CITY OF WESLACO, TEXAS
PURCHASING POLICY**

EFFECTIVE JUNE 7, 2016

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1.0 PURCHASING POLICY AND OBJECTIVES

1.1 INTRODUCTION

The City of Weslaco Purchasing Policy is to ensure fair, competitive access to governmental procurement by responsible vendors/contractors and to conduct business activities in such a manner to foster public confidence in the integrity of the City of Weslaco.

The Texas Comptroller of Public Accounts issued a Model Purchasing Manual for Texas Cities and Counties in 2010 with the following goals of public purchasing:

“**Purchasing** is the process of acquiring all the goods and services necessary for a government entity to provide the public with certain services.

Private sector purchasing’s goals are to:

- Purchase the proper good or service to suit the business’ need;
- Get the best possible price for the good or service;
- Have the good or service available where and when it is needed;
- Ensure a continuing supply of needed goods and services; and
- Guard against any misappropriation of the business’ assets procured by purchasing.

Public Purchasing has the same goals and some additional goals, including:

- Responsible bidders are given a fair opportunity to compete for the government’s business. This is done partially by the statutory requirements for competitive bids and proposals, and partially by the government’s own purchasing procedures.
- Public funds are safeguarded. Although the purchasing office does not usually designate the types of purchases to be made, it should see that the best value is received for the public dollar.
- Public spending is not used to enrich elected officials or government employees, or to confer favors on favored constituents.
- Historically underutilized businesses (HUBs) have an equal opportunity in the contract awards process.”

1.2 PURCHASING OBJECTIVES

The primary objective of the Purchasing Office is to support the Department Directors in accomplishing the goals established by the City Commission and the City Manager. The Purchasing Office will comply with legal and ethical standards to obtain the specified quality and quantity of merchandise at the lowest cost to the City.

1.3 PURCHASING AUTHORITY

Purchasing Authority is defined as the ability to initiate purchases without approval from another person and is displayed in the chart below. Proper authorization and/or Purchase Order approval is needed before an actual order is placed with a vendor.

Tier	Type	Lower limit	Upper limit	Quotes/Bids	Approval
1	Direct Purchase Order	-	1,000.00	None	Department Director / Purchase Agent
2	Informal	1,000.01	5,000.00	3 telephone	Dept Director /Purchase Agent /Finance Dir *
3	Formal	5,000.01	25,000.00	3 written	Dept Director /Purchase Agent /Fin Director /City Manager *
4	Competitive	25,000.01	and up	Advertised 2 weeks, sealed bids/proposals	City Commission *

*Note: As per State law, any purchase between \$3,000 and \$50,000 – must check HUB list

Department Head Approval: Department Head must approve all purchases. Account designees will only approve on behalf of Department Head when the Department Head is absent from the office, yet it is strongly encouraged that the Department Head accept the responsibility on all purchases made within his/her department. The Department Head by approving such purchases assures the City that such items or service is needed to promote City operations and assumes the responsibility of such purchase being inventoried.

City Manager Approval: The City Manager reserves the right to approve any and all professional services contracts not exceeding \$15,000.00

2.0 SMALL PURCHASES - \$1,000.00 AND UNDER – NO QUOTES REQUIRED

2.1 SMALL PURCHASE DEFINITION

A small purchase totals \$1,000.00 or less. Although quotations are not required for small purchases, purchasers should ensure that a variety of vendors have an opportunity to participate in the business conducted by the department. Alternating awards to qualified vendors should be a policy of each department.

2.2 SPLITTING PURCHASES PROHIBITED: Splitting purchases in order to avoid the \$1,000.00 small purchase threshold is prohibited.

3.0 PURCHASES BETWEEN \$1,000.01 AND \$5,000.00 – REQUIRE THREE INFORMAL QUOTES

3.1 Informal quotes are telephone conversations, emails, website pricing on goods or services, which can be presented on a City quote form or tabulation.

3.2 HUB Vendor Search and Solicitation

- Section 252.0215 of the Texas Local Government Code mandates that “a municipality, in making an expenditure of more than **\$3,000.00** but less than \$50,000.00 shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the city is situated, the municipality is exempt from this section.” The listing for HUB vendors is found on the Texas Comptroller of Public Accounts website.

4.0 PURCHASES BETWEEN \$5,000.01 AND \$25,000.00 – REQUIRE THREE FORMAL QUOTES

4.1 Formal quotes are actual letterhead, or business printed forms, emails from a responding vendor or firm with pricing on goods or services. Formal quotes must be provided as back up to the City quote form or tabulation.

4.2 HUB Vendor Search and Solicitation

- Section 252.0215 of the Texas Local Government Code mandates that “a municipality, in making an expenditure of more than \$3,000.00 but less than \$50,000.00 shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the city is situated, the municipality is exempt from this section.” The listing for HUB vendors is found on the Texas Comptroller of Public Accounts website.

5.0 PURCHASES OVER \$25,000.00 – REQUIRE CITY COMMISSION APPROVAL AND/OR COMPETITIVE SEALED BIDS OR PROPOSALS

5.1 Purchases that total \$ 50,000.00 and over are governed by state law (Chapter 252, Texas Local Government Code). The City reserves the right to seek competitive bidding below the State's threshold. Therefore, any purchase over \$25,000.00 must be presented to the City Commission for approval and advertise for competitive bidding in accordance with state requirements.

Once the need for competitive bidding has been identified and the City Commission has approved going out for bids, there shall be no contact by any potential vendor with any City Commission member, or City staff, other than with the Purchasing Agent.

5.2 General Overview of Competitive Bidding and Solicitation of Proposals

- Written Specifications: Written specifications indicating a clear and concise description of the Item(s) or Service(s) to be purchased must be presented to the Purchasing Office. The City Manager must approve all specifications prior to advertising.
- Bid Preparation: Based on the specifications, the Purchasing Agent will prepare a bid specification to be sent to at least three vendors. All bid specs will be prepared by Purchasing and will be sent out ONLY on the official City of Weslaco bid form.
- Bid Advertisement: The Purchasing Agent will schedule a bid/proposal opening date and will advertise the solicitation in a local newspaper and City website at least fourteen (14) days before the scheduled bid opening date. The prepared solicitation will include the bid/proposal opening date, and the time and place will be clearly stated on the front page of the advertisement.
- Bid/Proposal Record: The Purchasing Agent will prepare a bid/proposal file to be maintained in the Purchasing office.
- Bid/Proposal Opening: On the bid/proposal opening date at the time and place designated in the advertisement, the Purchasing Agent will publicly open and read aloud all responses to the solicitation that have been received. The bid/proposal opening will be open to the public, and all respondents are invited to attend. Bids/Proposals received after the deadline imposed will not be accepted, and any late bids/proposals received vial any mail courier will be returned to the vendor.
- Bid Tabulation: The Purchasing Agent and/or Department Head will prepare a bid tabulation sheet listing all responses received from each vendor along with other information such as vendor terms, lead times, and warranties.
- Bid Review: The Purchasing Agent and/or Department Head will review the re-

sponses and agree on which bid/proposal to deem most advantageous to the City.

- Bid Approval: The Purchasing Agent and/or Department Head will prepare a memo to the City Manager describing the bid/proposal and state a recommendation for action. The memo and bid tabulation will be submitted to the Finance Director for approval and inclusion on the next possible City Commission agenda.
- CITY COMMISSION APPROVAL: ONLY THE CITY COMMISSION HAS THE AUTHORITY TO AUTHORIZE A CONTRACT OR ORDER OVER \$25,000.00 WORTH OF GOODS / SERVICES TO A VENDOR.

6.0 PREPARING BID SPECIFICATIONS IN DETAIL

Written specifications giving a clear and concise description of the item(s) to be purchased must accompany all purchase requisitions totaling \$25,000.00 or over. Product specifications are the responsibility of the requesting department, but, when requested, the Purchasing Agent will participate with each department in establishing specifications. Departments are encouraged to include Purchasing from the beginning of a project and to seek upon any expertise that Purchasing Office might have in the formulation of product specifications. If required, the Purchasing Agent will schedule a pre-bid/proposal meeting for the purpose of developing or reviewing specifications and answering questions.

Department Heads will establish and approve specifications for construction and repair contracts, vehicles and equipment. All specifications that include tractors and vehicular equipment, including trailers that attach to such vehicular equipment, shall be jointly approved by the Department Head responsible for overseeing the City's vehicle fleet, and the City Manager. All vehicle specifications shall be generic and should not be written around a particular type or make of equipment.

- 6.1 Brand Names - In order to provide a fair and equal opportunity for all vendors, City policy prohibits brand names from being specified as the only brand that will be accepted. Brand names can only be used as an example of the type of material required. When a brand name is used in a specification, the statement "Brand name or equal" should always be used. The only exception to this policy should be when the item to be purchased can only be used with existing equipment and the brand specified is the only brand that would work with the existing equipment.
- 6.2 Sole Source Purchases - A purchase might be necessary or practical from only one vendor. Some of these are defined by state statute: [Texas Local Government Code Section 252.022]
 - There is no competitive product. The good/service is a one-of-a-kind or patented product, a copyrighted publication available from only one source, or a unique item such as an art work. An item that is manufactured by a company and sold through several distributors is not considered a sole source since quotations can be obtained through several distributors.

- The product is only available from a regulated or natural monopoly. For example, utilities, gravel from the only pit in the area, or some similar situation.
 - The product is a component of an existing system that is only available from one supplier. The replacement of a component or a repair part may only be available from the original supplier.
- 6.3 Sole Source Purchasing Form – Departments must document any Sole Source Purchases by including a detailed memo, and/or a letter authenticating the nature of sole distribution rights from vendor, and the City Letterhead Sole Source Purchasing Form.

7.0 EMERGENCY PURCHASES / OTHER EXEMPT PURCHASES

Texas statute (Texas Local Government Code 252.022) generally allows local governments to make emergency or exempted purchases without competitive bidding. Although there is not a precise definition of what constitutes an emergency purchase, a municipality is generally exempted from competitive bidding if:

- In case of a public calamity, the prompt purchase of items or service is required to provide for the needs of the public or to preserve the property of the City of Weslaco, or
- The item is necessary to preserve or protect the public health or safety of residents of the City of Weslaco, or
- The item is made necessary by unforeseen damage to public machinery, equipment, or other property.

- 7.1 For purposes of this policy, the emergency purchase as outlined above shall be defined as a Local Emergency, as distinguished from a Disaster Declaration.
- 7.2 A Disaster Declaration is an emergency that entails the formal declaration by the Mayor, and in which the Emergency Operations Center is deployed.
- 7.3 In cases of a Local Emergency, Tier 3 approvals are amended as follows, and Tier 4 is eliminated:

Tier	Type	Lower limit	Upper limit	Quotes/Bids	Approval
3	Informal	5,000.01	and up	3 written, if possible, if not, telephone	Dept Director / Purchasing Agent / Finance Dir / City Manager

**

** If purchase is over \$25,000 then item placed on next agenda for ratification by City Commission.

- 7.4 In the case of a Disaster Declaration, the same process is followed for a Local Emergency, except that an additional approval by the Emergency Management Director is required for all such purchases.
- 7.5 Emergency Purchase Form – Departments must document any Emergency Purchases by including a detailed memo stating the nature of emergency, and/or a letter from Emergency Management Director authenticating the nature of emergency, and the City Letterhead Emergency Purchasing Form.
- 7.6 In addition to emergency exemptions there are other types of exemptions from the bidding procedures as established by Texas Local Government Code 252.022, including:
- Personal, professional, or planning services defined only as those performed by a certified public accountant, licensed architect, physician, optometrist, surgeon, registered surveyor, engineer or any group or association thereof. If the service you are procuring is not listed above; it is NOT A PROFESSIONAL SERVICE.
 - In cases where equipment must be dismantled in order for a vendor to provide an estimate.

8.0 CHANGE ORDERS TO PURCHASES ORDERS OR CONTRACTS

All change order or modification requests to purchase orders or contracts must be submitted to the Purchasing Office. The City Manager has the authority to approve changes in the plans or specifications of a contract award over \$50,000.00 after performance of the contract has commenced, or to decrease or increase the quantity of work to be performed, or materials, equipment, or supplies to be furnished.

The City Manager is authorized to approve change orders, subject to the following conditions:

- The original contract price may not be increased more than 25%;
- The original contract price may not be decreased more than 25% without the consent of the contractor;
- The change order involves a decrease or an increase of \$25,000 or less;
- All change orders must be reviewed and approved by the City Commission prior to final payment to the contractor, even if previously approved by the City Manager and fully executed; (Texas Local Government Code, Sec. 252.048).

Copies of invoices, and all correspondence related to the change order, including a memo from Department Head, will be sent to the Purchasing Office and will become part of the permanent file of the purchase order or contract/project.

9.0 STATE CONTRACTS & OTHER PURCHASING COOPERATIVES AND ANNUAL CONTRACTS

9.1 State Contracts - The City of Weslaco participates in the State of Texas Cooperative Purchasing Program (CO-OP). The program allows the City to make procurements through contracts established by the state with various vendors for a wide variety of products and services. Since advertising and bid procedures have already been satisfied by the State through these contracts, the City does not have to go through the advertising and bidding process when making purchases through the state program. A listing of products and services available through state contract is available from Purchasing Office or on the Texas Comptroller of Public Accounts website.

9.2 Other Purchasing Cooperatives - The City of Weslaco participates with several other cooperative purchasing programs. In each case, all advertising and bidding requirements have been satisfied. The City is a participating member of the following cooperatives (including but not limited to):

- BuyBoard
- Texas DIR
- Houston-Galveston Area Council of Governments (HGAC)
- TCPN

10.0 ANNUAL CONTRACT

Repetitive purchases of the same item from the same vendor may not individually exceed the approval levels, but when taken in the aggregate, may exceed the minimum level to warrant the bidding process. In such cases, the Purchasing Office or Department Head may establish an annual contract with a vendor or use state or local cooperative purchasing contracts for specific repetitively-used items such as fuel, or street material or, other services. After a contract has been approved by the City Commission, if needed, authorized department representatives may make purchases of the materials or services specified under the contract directly from the successful vendor through the annual contract with regards to approved annual amounts set forth by the City Commission.

11.0 PURCHASING ETHICS

Anyone engaged in procurement for the City of Weslaco shall comply with the following ethical standards:

11.1 PERSONAL GAIN

It shall be a breach of ethics to attempt to realize personal gain through public employment with the City of Weslaco by any conduct inconsistent with the proper discharge of the employee's duties.

11.2 INFLUENCE OF A PUBLIC EMPLOYEE

It shall be a breach of ethics to attempt to influence any public employee of the City of Weslaco to breach the standards of ethical conduct set forth by the City.

11.3 PARTICIPATING IN PROCUREMENTS WITH FAMILY OR FRIENDS

It shall be a breach of ethics for any employee of the City of Weslaco to participate directly or indirectly in procurement when the employee knows that:

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

11.4 GRATUITIES

It shall be a breach of ethics for any employee of the City of Weslaco to solicit or accept any gratuity or offer of employment in connection with a City purchase.

11.5 KICKBACKS

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

11.6 CONTRACT CLAUSE

The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

11.7 CONFIDENTIAL INFORMATION

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

11.8 PURCHASE OF MATERIALS, EQUIPMENT, & SUPPLIES FOR PERSONAL USE

Unless specifically approved in writing by the City Manager, no employee may purchase City property for his/her own personal use unless it is bought through the public City auction. A City employee declaring items surplus may not purchase that such item. This includes both new and used equipment, materials, or supplies.

11.9 PRIVATE PURCHASES THROUGH CITY FACILITIES

No employee may use the purchasing power of the City of Weslaco to make private purchases. In addition, employees should not have private purchases sent to the City C.O.D.

11.10 DISCLOSURE OF INTERESTED PARTIES

In accordance with section 2252.908 of the Texas Government Code, The City of

Weslaco may not enter into a contract with a business entity that requires the approval of the City Commission until that business entity files a Form 1295 with the Texas Ethics Commission through the Texas Ethic Commission online reporting, and then files the completed, signed, and notarized Form 1295 with the City of Weslaco Purchasing Agent.

11.11 PROHIBITED CONTACT

Once the City Commission has approved going out for bids on a procurement, there shall be no contact by any potential vendor/bidder with any member of the City Commission or with any City staff, other than with the Purchasing Agent in the normal course of the bidding process.

12.0 MISCELLANEOUS

12.1 TAX EXEMPT STATUS

The City of Weslaco is exempt from federal, state, and municipal taxes except in certain prescribed cases such as hotel/motel taxes. A Texas Sales and Use Tax Exemption Certificate may be provided to vendor as proof of exemption status. The City of Weslaco Texas Taxpayer identification number is: 17460025442

12.2 CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS – City of Weslaco reserves the right to award a higher bid if the higher bid is from a local business located in the City of Weslaco and is within 3% of the lower bid for real property and 5% for construction projects. The City Manager has full discretion when considering the Principal Place of Business statute.