

# **CALDWELL COUNTY, TEXAS**

## **PURCHASING POLICIES AND PROCEDURES MANUAL**

OFFICE OF THE CALDWELL COUNTY PURCHASING AGENT.

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# **CALDWELL COUNTY**

**PURCHASING POLICY**

**AND**

**PROCEDURES MANUAL**

## **INTRODUCTION**

### **Background:**

This manual provides county departments and employees with the necessary information to make decisions to request the purchase of goods and services needed to perform the functions of their offices effectively.

### **Mission:**

The mission of the Caldwell County Purchasing Division is to:

- (1) Provide equal access to all vendors participating through competitive acquisition of goods and services;
- (2) Protect the interests of Caldwell County taxpayers without regard to any undue influence or political pressures;
- (3) Account for all County assets through an effective fixed asset management system in accordance with the County Auditor's policies and procedures;
- (4) Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to County purchasing;
- (5) Ensure that all purchasing shall be conducted strictly on the basis of economic merit in order to promote the interest of citizens of Caldwell County.

### **I.**

#### **STATEMENT OF GENERAL POLICY**

It is important to remember that all county purchases should be made in full public view and with the greatest transparency possible. Not only should the purchasing of goods and services for the County be fair and open but it should also not have the appearance of any conflict of interest on the part of any County employee or Elected Official.

To avoid violation of or the appearance of violation of the policies in this manual, Elected Officials and County Employees **are prohibited from seeking or accepting, directly or indirectly any:**

- (1) **Personal loans, in any amount, from any individual(s) or from a business, (not to include loans from banks, credit unions, or other recognized lending institutions) who are doing or seeking to do business with Caldwell County.**
- (2) **Any service, payment, entertainment, trip or gifts of merchandise, money or thing of value, in any amount, from a business or individual(s) doing or seeking to do business with Caldwell County.**

**It is also important that all County employees and Elected Officials understand that they are banned from purchasing any supplies, materials, or equipment of any kind for personal use through Caldwell County.**

Caldwell County intends to maintain a cost effective purchasing system conforming to good management practices. To be successful, the system must be backed by proper attitudes and cooperation of not only every elected official and department head, but also every supervisor and employee of Caldwell County. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

In order to ensure an open purchasing process and economy in purchasing, the Commissioners Court has determined that competitive bidding will be used as much as possible in the purchase of goods and services in addition to the competitive bidding requirements set forth by Texas statute.

Compliance with the statutory competitive bidding requirements and the policies set forth in this manual will result in competitive bids and proposals which insure the safeguarding of public funds.

The Purchasing Division does not usually designate the types of purchases to be made but it should always attempt to see that best value is received for each tax dollar spent on purchases. Caldwell County intends to maintain a cost-effective purchasing system which conforms to good management practices and controls.

The purchasing process for governmental entities is unlike the process in private industry. **Governmental purchases are not instantaneous.** Time is required to complete the steps required by State law and shortcuts cannot be taken. In order to accomplish timely purchasing of products and services at the least cost to Caldwell County, all departments must cooperate fully. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

Additionally, certain types of purchases, such as technology purchases, must be approved by the IT department before placement of the order by the Purchasing Division. Prior planning and the timely submission of the request will allow sufficient time for evaluation by the IT department as to the best hardware or software compatibility with Caldwell County's system.

The Commissioners Court has delegated the purchasing responsibility within the guidelines established in this policies and procedures manual to the Purchasing Agent. The Purchasing Agent and designees are

authorized to execute orders on behalf of the County within the policy guidelines set forth herein. The Purchasing Agent or a designee will make any interpretation of these guidelines necessary for the effective operation of the purchasing function.

This manual contains the authorized policy and procedures for purchasing and asset management by County officials and employees. The Caldwell County Commissioners Court promulgates these procedures, and only the Caldwell County Commissioners Court can approve any changes in the contents of this manual.

### **To Our Vendors:**

Caldwell County strives to develop effective relationships with vendors and encourages full and open competition wherever possible. All vendors will be afforded equal opportunity to participate in public bidding so long as they remain in good standing with Caldwell County. To accomplish this intent, all contracts between the County and the vendor shall be coordinated through the Purchasing Division.

It is the intent of the Purchasing Division to promote the county's reputation for courtesy, fairness, and impartiality. The responsibility for achieving this goal rest with each individual who participates in the procurement process, including vendors and purchasing personnel. This manual does not create any rights in individuals or entities doing business with Caldwell County and/or any rights in individuals or entities that are enforceable against Caldwell County.

This manual is for the use of Caldwell County employees and officials and is designed to assist them in complying with the laws governing county purchasing and asset management procedures.

Caldwell County, as a political subdivision of the State of Texas, is tax exempt.

## **II.**

### **IMPLEMENTATION**

The policies and procedures outlined in this manual will be aligned with the purchasing module through Tyler Technology (Incode 10) after adoption by the Commissioners Court. The Purchasing Agent will coordinate onsite training and/ implementation to set up all users county wide.

Furthermore, it would be the intent to have the policies and procedures outlined in this manual fully implemented with the start of 2020-2021 fiscal year with a number of the procedures and policies implemented prior to the beginning of the new fiscal year.

It will be the goal of the Purchasing Division to achieve a step by step integration of the policies and procedures contained herein in order to obtain a smooth transition into the centralized purchasing that this manual sets forth.

### III.

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

Authority to make County purchases resides in either the County Purchasing Department or the Commissioners Court. The Purchasing Department is responsible for making purchases of supplies, materials, equipment, and for obtaining contracts for repairs to County owned property, except in cases where competitive bids are required by law. All competitively bid contracts are made by and through the Commissioners Court. Such purchases made on competitive bids shall be supervised by the Purchasing Agent in accordance with the purchase contract. Competitive bidding is generally required on all purchases or repair contracts for \$50,000 or more.

General guidelines for purchasing and utilization of this manual are as follows:

- (1) Determine whether the County is required to make the purchase by competitive bidding. Generally, competitive bidding is required on any purchase likely to equal or exceed \$50,000. Unless a bid contract for the goods or services already exists, the items required to be purchased through competitive bidding will be purchased as described in Section VII, pp. 18-23. Questions regarding the necessity of competitive bidding should be directed to the Purchasing Department.
- (2) **Other Purchases** -- Special procedures are available for and applicable to the purchase of particular goods and services, summarized as follows:
  - (a) **Unbudgeted Capital Expenditures** - Purchases not authorized in a Department's current budget must be authorized through a budget amendment by the Commissioners Court. (See Section VIII, A, p .26).
  - (b) **Blanket Purchase Orders** -- Acquisition of goods or services on an "as needed" basis may be authorized in appropriate instances by a blanket purchase order. (See Section VIII, B, p. 26).
  - (c) **Insurance and High Technology** -- As an alternative to competitive bidding, in the case of high technology items and insurance, competitive proposals from vendors may be solicited by the County when, in the judgment of the Commissioners Court, this procedure is preferable. (See Section VIII, C, p. 26-27).
  - (d) **Professional and Personal Services** -- Professional and Personal Services are exempted from competitive bidding, in which case they are obtained through Requests for Proposals as described in Section VIII, D, p. 27).
  - (e) **Emergency Purchases** -- Items otherwise required to be competitively bid may be exempt from the competitive bidding process by the Commissioners Court if (1) a prompt purchase is required, due to a public calamity, to meet a necessity of the citizens or preserve public property, (2) the purchase is necessary to preserve the public health or safety of county

residents, or (3) the purchase is required due to unforeseen damage to public property. (See Section VIII, E, p.29-30)

- (f) **Work in Progress** -- This may be exempted by the Commissioners Court and paid for by the day, after it is performed.
- (g) **Land and Right-of-Way Acquisition** -- This has been exempted by the Commissioners Court from competitive bidding.
- (h) **Sole Source Items** -- An item available from only one source may be purchased without competitive bidding, with the approval of the Commissioners' Court, as provided in Section VIII, F, p.30).
- (i) **Equipment Maintenance Services** -- Maintenance is arranged through the Purchasing Division as described in Section VIII, G, p. 30-31).

(3) **Exemptions from the Requisition / Purchase Order Process** – The following are exceptions to purchase orders and the Requests of Payment are processed directly by the Purchasing Department:

- Attorney's vouchers
- Travel, mileage, meals, and lodging
- Appropriations to other governments
- Postage

## IV.

### REQUISITIONS FOR PURCHASE

#### A. Necessity of Requisition for Purchase

A requisition for purchase is required for all purchase equal to or exceeding \$500.00. The purpose is twofold: (1) to inform the Purchasing Division of the needs of the requesting department; and (2) to identify correctly and clearly the material requested. Requisitions must be prepared well in advance to enable the Purchasing Division to find a vendor and to allow for delivery by the vendor.

#### B. Types of Requisitions

The Purchasing Office classifies purchase requisitions according to the type of action and the time required for the purchase. There are four types of purchase requisitions: contract, routine, expedited, and emergency.

- **Contract Requisitions** - Normal purchases of items ordered from existing contracts. Contract requisitions generally require one working day to process.
- **Routine** – Normal purchases that are not under contract (i.e. “open market” requisitions) under \$50,000. These generally require 3 to 10 working days to process.
- **Expedited** - Open market purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases generally do not qualify as emergency purchases and are subject to all applicable bidding requirements. Expedited purchase requisitions require 1 to 3 working days to process. Expedited purchases are **not** emergency purchases. They are goods or services needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal work routine. *They should not be used unless absolutely required.* There are two types of expedited purchase requisitions:
  - **Walk Through** – Open market purchases for goods or services needed within three (3) working days to avoid work interruption, loss of service or significant added cost of operations. The user department should hand-carry all paperwork to the Purchasing Office immediately after entering the purchase requisition into the Incode system.
  - **Work Stoppage** – Open market purchases for goods or services needed immediately to prevent work stoppage due to unanticipated conditions. The user department should telephone or email the Purchasing Office immediately upon entering the purchase requisition into the Incode system and should also provide written documentation of the existence of a work stoppage for the contract file (written comments in the requisition or email justification from department head, managers or designees are acceptable documentation). The Purchasing Office instructs the user department on what action to take.

- **Emergency** – Purchase of any goods or services needed because of an emergency condition that the Commissioners Court has ordered exempt, in compliance with the Purchasing Act (Tex. Loc. Gov't Code § 262.024(a)(1)). All emergency exemption orders must be processed through the Purchasing Office. Emergency purchases with a total cost exceeding \$50,000 must be exempted from the requirements of the Purchasing Act by order of Commissioners Court. The Purchasing Agent submits the order and agenda request for Commissioners Court approval for emergency purchases exceeding \$50,000. Emergency purchases with a total cost under \$50,000 are handled like an expedited purchase requisition.

### C. Preparation of Requisition for Purchase

Use a separate requisition for each class of items. (i.e. copier toner, tires, capital equipment would all be entered on separate requisitions). Requisition forms are available manually or electronically. A requisition may be delivered electronically (Incode) by e-mail, fax, inter-office mail or hand delivered to the Purchasing Division. The requisition must be approved by authorized personnel who have the authority to make purchases for the department.

A requisition must contain the following information for proper processing:

- (1) **DEPARTMENT & DATE.** Give the name of the Department; date the requisition is forwarded to Purchasing and the date on which the item is needed.
- (2) **VENDOR.**
  - A. If the item is acquired under an existing bid contract, the vendor awarded the contract must be identified.
  - B. If the item is not under contract, vendor designation is requested. When possible, refer the Purchasing Division to vendors whose products have been used previously and found to be satisfactory. If the vendor is unknown enter “**TBA**” (To be assigned) and the Purchasing Division will select the vendor.
- (3) **QUANTITY REQUIRED.** State the number required. In addition to the number, where needed also provide the unit measure such as “dozen”, “gallon”, “each”, etc.
- (4) **DESCRIPTIONS AND SPECIFICATIONS.** Describe the item needed clearly. Provide size, color, type, grade, etc. Departments must also provide detailed and technical specifications when needed. When necessary, write descriptive information on a separate sheet and attach the sheet to the requisition. When buying printed material a sample of the form or document should be sent to the Purchasing Division.
- (5) **ESTIMATED COST.** (a) If the item is covered by a bid contract, insert the contract price on a per unit basis. (b) If not subject to an existing contract, provide an estimated price.
- (6) **FUND/DEPARTMENT NUMBER AND BUDGET LINE ITEM.** Identify, according to the County budget, the fund/department number from the department making the purchase. Designate, according to the County budget, the department’s budget line item against which the purchase should be charged. If the purchase exceeds the available budget, the Elected Official or Department Head should contact the County Auditor to arrange for a budget transfer (if approved the Commissioners Court) prior to placing the requisition with the Purchasing Division.

- (7) **CERTIFICATION.** The Elected Official, Department Head or authorized person must forward this requisition to the Purchasing Division. Electronic generated requisitions do not require signature.

#### **D. Office Supply Orders**

- (1) Office supplies are purchased from various vendors, however, annual contracts will be in place for ordering of most office supplies. The user department will send the requisition to the Purchasing Division but the supplies will be delivered directly to the user department. Every attempt will be made to group individual department orders in order to achieve bulk purchasing discounts.
- (2) Authorized personnel will place orders for office supplies, which will be forwarded, to the Purchasing Division, in order to review order and verify funds. Purchasing will then release the order to the vendor. Delivery will be made to the department. The department may pick up supplies if so desired.

#### **E. Blanket Orders**

- (1) Blanket orders may be placed with vendors for the purchase of small parts or services on an “as needed” basis. Blanket orders should not be used for the purchase of fixed assets or individual purchases exceeding \$500.00. Blanket orders are implemented through the Requisition process just like any other purchase. It is the responsibility of the department assigned the blanket order to track the order throughout the year and insure that each vendor tags all invoices with the appropriate blanket order number.
- (2) Examples of blanket orders would be orders for vehicle oil changes, flat repair, small parts purchased from hardware stores, automotive parts stores, electrical supplies, building maintenance items such as paint, lumber, nails etc.
- (3) Blanket orders are reissued on an annual basis beginning in October of each new fiscal year. Blanket orders will end the last week of September of the fiscal year.

#### **F. Orders from Annual Contracts for Road Materials**

- (1) Individual purchase orders are not required for purchases made off of annual contracts for road and bridge material. These are contracts which have been awarded on an annual basis by the Commissioners Court and blanket purchase orders are issued for these items.
- (2) The following are examples of Annual Contracts for Road & Bridge Materials:
- All Hauling
  - Rock
  - Premix Oil & Sand
  - Recycled Asphalt & Concrete
  - Clear Span Bridges

Box Culverts  
Steel Culverts & Metal Sheets  
Road Oil  
Seal Coat Emulsion  
Fuel & Lubricants  
Uniform Rentals  
Asphalt – Hot & Cold  
Rock for Seal Coat

### **G. Orders from Annual Contracts for Jail Meals**

- (1) Purchase orders are not required for purchases made off annual contracts for Jail Meal products or services.

### **H. Orders from Commissary Funds, Seized Funds, Grants & Forfeiture Accounts**

- (1) Manual requisitions are issued by the Sheriff's Office or Criminal District Attorney's Office as appropriate for purchases made for commissary funds, seized funds or forfeited funds under the supervision of that office. Manual purchase orders are issued to vendors upon completion of the bid process by the Purchasing Division.
- (2) Purchases from grants should be made through the normal requisition process with the appropriate notation made on the requisition identifying the grant fund and the county match, if any.

### **I. Capital Purchases after July 31st of the Current Fiscal Year**

- (1) Only requisitions for capital equipment **emergency purchases** will be processed after July 31<sup>st</sup> of the current fiscal year. Elected Officials and Department Heads should begin reviewing their end of year requirements as early as June with regards to any capital equipment purchases (normally taking 6-8 weeks to complete).
- (2) Please remember to allow adequate time for the Purchasing Division to complete the purchasing process and for the vendors to be able to deliver the goods or complete the service no later than September 30<sup>th</sup> of the current fiscal year.
- (3) A memo will be drafted and sent out County wide on June 15<sup>th</sup> to all department heads informing them that purchase orders will no longer be generated after July 31<sup>st</sup>. This process allows for the Purchasing Department to conduct end of year close out on all current outstanding purchase orders. Emergency purchases will be an exception.

**V.**

## PURCHASE OF MATERIALS AND SUPPLIES

### **A. General**

Materials and supplies not available from current contracts are acquired through the Purchasing Division. Additionally, contracts for repairs to property used by the county are entered through the Purchasing Division.

### **B. Responsibilities of the Purchasing Division and Requesting Departments**

This section of the procedure manual outlines the responsibilities of the county departments when making an acquisition through the Purchasing Division. It should be used as a guide to help departments do their part in purchasing.

(1) The Purchasing Division's responsibilities are to:

- (a) Obtain information about and to know the functions of the departments of Caldwell County.
- (b) Secure the product that best meets the needs of each department, at the least cost to the County.
- (c) Know the sources for and availability of needed products. Maintain an adequate pool of vendors.
- (d) Aid and to cooperate with all departments of the County to meet their equipment and supply needs.

(2) Requesting Department's responsibilities are to:

- (a) Make requests early enough to allow sufficient time for the vendor to make delivery.
- (b) Supply detailed specifications of item requested. Provide vendor contact information. The user department, occupant department, or an outside agency may propose specifications. **To ensure compliance with legal purchasing requirements, the Purchasing Office has final acceptance of the specifications, except those for construction projects.** This ensures proper quality control and avoids the proliferation of conflicting specifications in the different County departments. The Purchasing Office may submit any purchases that were not approved in the budget process to Commissioners' Court before specifications are prepared and advertised. To facilitate specification development and avoid duplication of their efforts, user departments should submit their specifications in electronic format to the Purchasing Office.
- (c) Inform the Purchasing Division or the County Auditor's Office of all unusual demands.
- (d) Take no actions that might be viewed as obligating or committing the County, except in an emergency.

- (e) **Make no commitments regarding commodities or services in the name of the County.** Such commitments will be **VOID** unless they are made by the Purchasing Division, the Commissioners Court, or other agents of the Commissioners Court.

### **C. Purchasing Procedures**

1. Capital Purchases - If the requisition is for the purchase of a capital item (\$5000.00 or more) one of the following alternative procedures should be followed:
  - a. If an unbudgeted capital expenditure, See II, a.
  - b. If a budgeted capital expenditure of is for more than \$5,000 but less than \$50,000.00 the item must be acquired through the Purchasing Department and the Purchasing Department must obtain three (3) written or phone quotes.
  - c. If the capital expenditure is budgeted and the item is \$50,000 or more, the capital expenditure must be competitively bid.
2. Requisition - complete a requisition as described in Section III, B, and forward a copy to the Purchasing Department.
3. Preparation of Purchase Order – Purchasing will enter the requisition into the computer system for preparation of a purchase order. If funds are unavailable, the Purchasing Department will return the requisition to the department. Unless the goods or services are already on contract, the user Department should obtain a minimum of three (3) written or phone quotations for purchase orders more than \$5,000.00 or less than \$50,000.00.
4. Placing Order - For purchases requiring delivery of items, Purchasing will send the original copy of the purchase order to the vendor (if required) and distribute copies as follows:
  - a. One copy to Purchasing to be retained with original requisition.
  - b. One copy to be given to the Treasurer with invoice.

## **VI.**

### **CONSTRUCTION PROCUREMENT**

Texas Local Government Code Chapter 271, Subchapter C is used only for public works projects funded by Certificates of Obligation. Texas Government Code Chapter 2267 provisions are used when an alternative project delivery method (other than traditional competitive bidding) is used for public works projects. Construction procurement is consistent with other procurement procedures in this manual and with pertinent statutes. The Purchasing Manager supervises all construction procurements. All competitive bids are accomplished by the following process:

- A memo submitted to the Purchasing Manager, signed by the Official serves as the initial notification that a competitive bid is needed.

- Before developing the plans and technical specifications, the user department contacts the Purchasing Office to obtain an RFB (Request for Bid) number and contract number, when applicable. An electronic copy of the technical specifications is submitted with the memo to assist in the development of the project manual. Before the project manual and plans are submitted to the printer for copying, the individuals assigned to the project by the Commissioners Court, the Purchasing Manager and the Civil Attorney review and approve the Bidding and General Requirements. The Purchasing Manager reviews the specifications for compliance with the Purchasing Act and the Civil Attorney reviews them for legal considerations.

NOTE: Purchasing prints the document when there is only a project manual and no plans. The user department is responsible for printing when there are both plans and a project manual.

- The user department must provide the Purchasing Office at least fifteen (15) workdays to develop the RFB, circulate it for the appropriate reviews, and printing. During this time, Purchasing develops a Procurement Schedule detailing the milestones of the solicitation, including dates and times for the pre-bid conference, bid opening, and pre-construction conference.
- The Purchasing Office assigns a RFB number and contract number to the project at this time if it has not already been assigned.
- The Purchasing Office publishes the advertisement for bid, which must include the following:
  - Description of Work;
  - Location at which the bidding documents, plans, specifications, or other data may be examined without charge by all potential bidders. The location at which plans and specifications may be obtained and the amount of the deposit required;
  - Time and place for submitting bids and time and place of bid opening;
  - The method of payment. If payment is by Certificate of Obligation, the advertisement must state either:
    - 1) that the bidder must accept Certificates, or
    - 2) that the bidder must elect to accept Certificates or assign them to a financial institution which has made arrangements with the county.
- The Purchasing Office provides detailed information on the bidding requirements of the RFB to ensure that purchasing procedures are complied with and the user department provides technical information and ensures that technical standards are complied with. Purchasing schedules the pre-bid conference and assists in conducting the conference as follows:
 

Have all attendees sign the attendance roster and provide a detailed Agenda which:

  - a) Provides a brief introduction of the project title, magnitude, and performance period.
  - b) Indicates whether there has been any addendum issued, and if so, all attendees and project document holders must receive a copy.
  - c) Discusses the Purchasing Office role in the procurement and administration process.
  - d) Establishes a “cutoff” date for questions and request for clarifications, as well as a final date for issuance of addendum.

e) Has the project Engineer, Architect or Project Manager discussed the specifics of the project including review of the plans and specifications and allowed for a question and answer session.

- Purchasing determines any issues discussed during the conference that requires issuance of an addendum. Purchasing may extend the date specified in the notice if needed.
- Purchasing issues the amendment only if there are at least five (5) days between the date of the addendum and the date specified for bid opening. If less than five days exist, the opening date should be extended to allow for a minimum of five days between the date of the addendum and the opening date specified in the addendum.
- Has the user department provided Purchasing with the technical documents (i.e. changes or additions to the plans and or specifications). Purchasing prepares addendum using standard form and distributes the addendum to all applicable vendors.
- The following procedures are adhered to when receiving bids:

Purchasing receives all bids as specified by the RFB, unless specified otherwise by statute.

- **Bids not received after the opening time on the day of bid opening.** All bids received after the opening time are returned unopened to the bidder with a letter from Purchasing notifying the bidder that the submitted bid was received after the due date and time.
- Purchasing records the name of the vendor submitting the bid, as well as the time and date the bid was submitted. If a bid is received by mail, express mail, or courier, the method of delivery is reflected in the record.
- After bids are received, Purchasing provides a secure place to hold the bids until the opening date. The bids are to be received sealed and remain sealed until the Purchasing Office opens them in a public forum on the advertised date and time.
- On occasion, bids that are received in the mail or by some other independent carrier may be inadvertently opened. If this situation occurs, another employee of Purchasing and County Auditor / County Judge is immediately called to act as a witness that the details of the bid, especially the price, were not reviewed, the bid was sealed again by the employee, and the incident is documented.
- The above process shall be undertaken in a manner that precludes any perception of favoritism and avoids revealing bid prices or any bid information. Publicly receiving sealed bids and recording the submission of requested bids inhibits the perception that Purchasing is manipulating the receipt of bid.
- Purchasing publicly opens and documents the sealed bids on the date, time and place specified in the notice. Preliminary bid tabulations are provided to the public upon request. Purchasing and

the user department determine who is responsible for creating the bid tabulation and, if it is the user department, then the user department provides a copy to Purchasing for distribution to the general public. For those bids that contain numerous line items, a tabulation that includes the total bid amount, excluding individual line item amounts per bidder, can be provided immediately after bid opening. Requests for all-inclusive bid tabulation are honored after it is completed and may require at least ten (10) workdays.

- Purchasing provides a copy of the bid tabulations to the Commissioners Court. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.
- Purchasing evaluates all bids with assistance from the user department and they jointly develop a recommendation for award to Commissioners Court. The evaluation of bids is based on the following factors:
  - a) equipment if that is part of the bid,
  - b) or the cost of delivery and hauling if road construction material is the subject of the bids;
  - c) the compliance of goods and services offered with specifications; and
  - d) the responsibility of the vendor, including the vendor's past performance, the vendor's financial and practical ability to perform the contract, and the vendor's safety record if Commissioners Court has adopted a definition of safety that is stated in the RFB.
- Purchasing forwards a complete bid packet to the Official or Executive Manager for completion and signature. The form and any other documentation from the user department are submitted with the agenda request to justify the award. Purchasing is responsible for contacting the County Judge for placement of the item on the upcoming Commissioners Court meeting agenda.
- When the **lowest** priced bid is not the **best** bid, clear justification for not selecting the lowest bidder must be documented to the Commissioners' Court. This recommendation may be supported by clear and concise documentation from the user department that determines the rationale for awarding to a bidder other than the lowest bidder. Purchasing and the Elected Official or County Administrator may recommend contract award to Commissioners Court in session. The Court shall:
  - Award the contract to the responsive and responsible bidder who submits the **lowest** and **Best** bid; or
  - Reject all bids and publish a new notice if the goods and services are still needed.
  - If two responsive and responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge. A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence about its responsibility.
- After the award is announced, the County Judge signs the contract for the County and Purchasing returns the bid bonds of any vendor that was not awarded a contract.

- After an award is made, a notice of contract award form is processed. An original contract, along with contract award form, is maintained in Purchasing. The other originals, along with a contract award form, are furnished to the Contractor and the County Clerk when approved by Court. Copies of all documents are furnished to the user department, the Auditor's Office, and the Civil Attorney.
- A Notice-of-Award ("NOA") letter, issued by Purchasing, accompanies the contractor's copy of the contract. The NOA letter includes the requirements for the contractor to submit various documents, and the time period within which they must be submitted. For example, Payment Bonds, Performance Bonds and an Insurance Certificate must be submitted within ten (10) work days after contractor receipt of the NOA letter. Unless otherwise indicated, the NOA also states that Notice-to-Proceed is not issued unless the contractor submits the required documents within the specified time period.
- Purchasing schedules the Pre-Construction Conference (also known as the Pre-Performance Conference). The user department is responsible for all technical presentations and Purchasing ensures that all applicable purchasing procedures are followed. Purchasing assists in conducting the Conference by:
  - Having all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project;
  - Discussing briefly the contract requirements, amount, and any other pertinent information about the project. The user department representative (technical representative) is responsible for providing a thorough synopsis of contract requirements and any County policies to which contractor must adhere;
  - Establishing dates for Submissions of all required documents such as material submittals, progress reports, payrolls, (when applicable), etc.
  - Receiving required documents from the contractor, i.e., Performance Bond, Payment Bond, Insurance Certificates.
- Reviews pay applications received during the project for approval. Forwards approved pay applications to the Auditor.
- Reviews requests for change orders from contractor or architect and contacts the County Judge for placement on the Commissioners Court agenda for approval if required.
- Upon completion of project, prepare Commissioners Court agenda item for court's acceptance of the project. Advise Auditor of release of retainage funds. Receive all final as built documentation and warranties. Notify bonding agencies of completion of project.

## **VII.**

### **BIDDING PROCESS AND PROCEDURES**

#### **A. Budgeted Items:**

## **Purchase Categories**

### **Category 1 – Purchases Less than \$500**

The individual department head may exercise discretion for the acquisition of such purchases as authorized in the current fiscal year budget, within the guidelines established elsewhere in the policy and procedures manual. Competitive quotations are encouraged. **PURCHASES LESS THAN \$500.00 DO NOT REQUIRE A PURCHASE ORDER** unless a vendor requires one.

### **Category 2 – Purchases \$500 or Greater but less than \$5,000**

A minimum of 2 to 3 written competitive quotes are required for purchases of goods or services with a total cost from **\$500 to \$4,999.99**. If the using department receives these quotes, all quotes **MUST** be received in the Purchasing Division before a Purchase Order is issued and any order is placed. The User Department should submit an online requisition with supporting documentation for review by the Purchasing Division. The Purchasing Division will review the quote & departmental budget and issue a Purchase Order to the department that has made the requisition.

### **Category 3 – Purchases \$5,000 or Greater But Less than \$50,000**

A minimum of three written competitive quotations are required for purchase of goods or services with a total cost within the \$5000.00 to \$49,999.99 range with the exceptions as authorized by this policy and procedures manual. If the using department receives these quotes, all three quotes **MUST** be received in the Purchasing Division before a Purchase Order is issued and any order is placed. The User Department should submit an online requisition with supporting documentation for review by the Purchasing Division. The Purchasing Division will review the quotes and issue a Purchase Order to the lowest bidder.

### **Category 4 – Purchases over \$50,000**

Sealed competitive written bids or proposals must be secured for all transactions reasonably anticipated being in excess of \$50,000 by Purchasing with approval of Commissioners Court. Unless the contract for services or goods are available to procure through a recognized procurement Co-Op.

**The Purchasing Division will continuously monitor purchases by all departments to encourage consolidation of purchases where possible to insure compliance with state bidding statutes.**

#### **(1) Purchases Over \$50,000.00**

##### *Requesting Department's Responsibilities*

- (a) Submit a requisition, specifications and recommended vendors to the Purchasing Division far enough in advance of the desired purchase date to allow time for the formal bidding process. (6-8 weeks)

##### *Purchasing Division's Responsibilities*

- (a) Review bid specifications to determine adequacy in light of general requirements and to insure that they are not unduly restrictive.
- (b) Prepare final bid specifications for Department's approval.
- (c) Prepare advertising request, vendor list and conduct pre-bid conferences if required.
- (d) Distribute bid specifications to vendors.
- (e) Obtain Commissioner Court approval of successful bidder

**(2) Purchases Over \$5,000.00 But Less Than \$50,000.00**

For open market purchases of goods and services totaling more than \$5,000.00 but less than \$50,000.00, the Purchasing Manager is authorized to select the exact goods or services to meet the request of user departments. The Purchasing Manager is authorized to select the vendor and to perform all actions necessary to conclude a contract for the purchase of the goods and services, including execution of the contract with specific approval of the Commissioners Court.

In selecting the exact goods or services requested by the user departments, Purchasing considers the following:

- the stated needs of the user department and whether the selected goods or services meet those needs;
- available information about sources and prices of the goods and services;
- the delivery requirements of the vendor and the user department; and
- any other information that a reasonable and prudent purchasing professional would consider in all the circumstances of the purchase.

The user department submits an open market purchase requisition to Purchasing with detailed descriptions of the goods or services required.

Based on the information in the purchase requisition, the Purchasing Manager shall wherever reasonable and practical:

- attempt to obtain at least three (3) quotations before selecting a vendor;
- document in writing the vendors notified and prices offered;
- select the vendor who makes the best offer taking into account not only price but also the urgency of the user departmental need and the speed of delivery and the quality of the goods and services offered; and,
- order the goods and services from the vendor who provides the quality, cost, and delivery schedule most consistent with the best interest of the County.

If quality and delivery terms meet County needs, the vendor who provides the lowest price is selected. If the vendor offering the lowest price is not used, a notation is made to the quotation documentation to indicate the reason another vendor is selected. The Commissioners Court may

deviate from the policy for purchases under \$50,000 if it is in Caldwell County's best interest and if it facilitates specific County operations.

**(3) Purchases Less Than \$5,000.00**

The user department submits an open market purchase requisition to Purchasing with detailed descriptions of the goods or services required.

Based on the information in the purchase requisition the Purchasing Manager shall whenever reasonable and practical:

- . attempt to obtain at least 2 bids before selecting a vender but may waive this requirement.
- . select the vendor who makes the best offer taking into account not only price but also urgency of the user departmental need and speed of delivery and quality of the goods and services offered: and,
- .orders the goods and services from the vendor who provides the quality, cost and delivery schedule most consistent with the best interest of the County.

If quality and delivery terms meet County needs, the vendor who provides the lowest price is selected. If the vendor offering the lowest price is not used, a notation is made to the quotation documentation to indicate the reason another vendor is selected. The County Judge may deviate from the policy for purchases under \$10,000 if it is in Caldwell County's best interest and if it facilitates specific County operations. Purchases for less than \$10,000 are not brought to Commissioners Court for approval.

**(B) NON – BUDGETED ITEMS**

**(1) Purchases Over \$50,000**

*Requesting Department's Responsibilities*

- (a) Submit a requisition, specifications and recommended vendors to the Purchasing Division far enough in advance of the desired purchase date to allow time for the formal bidding process. (6-8 weeks)

*Purchasing Division's Responsibilities*

- (a) Review bid specifications to determine adequacy in light of general requirements and to insure that they are not unduly restrictive.
- (b) Prepare final bid specifications for Department's approval.
- (c) Prepare advertising request, vendor list and conduct pre-bid conferences if required.

- (d) Distribute bid specifications to vendors.
- (e) Obtain Commissioners Court approval of successful bidder.
  - (a) Send copy of requisition to County Judge for recommended method of financing, including drafting of proper budget amendment, if required.
  - (b) If not using state-approval purchasing programs, than obtain preliminary Commissioner Court approval to solicit bids.
  - (c) If using non-bid state-approved purchasing programs, then proceed to Commissioner Court for approval of purchase and required budget amendment if necessary.

**(2) Purchases Over \$5,000.00 But Less Than \$50,000.00**

- (a) Send copy of requisition to County Judge for recommended method of financing, including drafting of proper budget amendment, if required.
- (b) Follow procedures set forth in VII (A) (2) above.
- (c) Proceed to Commissioner Court for approval.

**C. General Bidding Information**

Purchasing will insure publication of the legally required notice. No specifications are to be written with the intent to exclude a possible bidder. Competitive bidding can be let on either a lump sum or a unit price basis. If unit price bids are solicited, the needed quantities of each item are to be estimated in the requisition based on the best available information. The successful bidder's compensation, however, will be based on the actual quantities supplied, furnished or constructed.

**D. Bid Opening**

Following receipt of bids by Purchasing, bids will be publicly opened in the Purchasing Dept. Office. Anyone may attend. All sealed bids will be opened on the assigned day at the designated time and place. A bid tabulation sheet will be furnished to all bidders and the requesting department.

**E. Bid Recommendations**

After examining copies of all the bids, the requesting Department will send a written recommendation for bid award to Purchasing at least seven days prior to the deadline for Commissioners Court agenda.

Purchasing will verify recommendation of the lowest bid received. Any recommendation to award to other than the low bidder will be presented to the County Judge for resolution prior submission to Commissioners Court.

After certification of recommendations, Purchasing will obtain an agenda setting, notify the Department and forward the bid recommendation; along with a bid tabulation, to the County Judge's office for placement on the next available Commissioner Court Agenda

A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is notified by Purchasing of the proposed award and offered an opportunity to appear before the Court and present evidence concerning the lower bidder's responsibility.

## **F. Bid Award**

Bids will be awarded to the lowest and best responsible bidder. In addition to the price, the Commissioners Court will consider:

- (1) The quality of the product;
- (2) The adaptability of the product to the intended use;
- (3) The ability, experience, efficiency integrity, and financial responsibility of the bidder;
- (4) If the vendor is delinquent in taxes to Caldwell County (See Texas Local Government Code § 262.0276);
- (5) Compliance with all insurance requirements of Caldwell County; and
- (6) Any conflict of interest.

When the county receives only one bid, that bid is presented to the Commissioners' Court and may be accepted if the Commissioners' Court determines the price is fair and reasonable as per Texas Local Government Code § 262.027(a)(1)(2). If the price is not fair and reasonable, the bid is rejected.

If two or more responsible bidders submit identical bids, the bid award will be made by drawing lots by the County Judge as per Texas Local Government Code § 262.027(b).

## **G. Bid Bonds for Public Works**

A vendor awarded a contract for Public Works will be required to post bond. Purchasing will include the bonding requirement in the legal bid advertisement. A Performance Bond is required for contracts over \$100,000 (100% of cost) and a Payment Bond for contracts over \$50,000 (100% of cost). A Bid Bond (5% of cost) is required to assure the county that the firm is bondable and protect the county if the contractor fails to sign the contract. See Texas Local Government Code § 262.032(a)-(b).

## **H. Acquisition of Item after Bid Award**

Following award of the bid contract by the Commissioners' Court, a purchase order, award letter or official notice to proceed will be sent to the vendor by Purchasing.

## **I. Change Order**

A change order may be required when it becomes necessary to make changes after performance of the contract has commenced. The County Judge is authorized to approve increases or decreases to the original contract price of \$5,000 or less. The original contract price may not be increased by more than 25%. All change orders requiring increases or decreases to the contract price involving more than \$5,000 must be approved by the Commissioners Court. All decreases of 18% or \$5,000 or more of the original contract price must have the written consent of the contractor. The Auditor shall ascertain that adequate funding is available for any increase in contract price.

Any major alterations of the plans or specifications must be submitted to the originating department and the Commissioners Court for approval.

## **VIII. SPECIAL PURCHASES**

### **A. Unbudgeted Capital Purchases exceeding**

If the needed capital item was not included as part of the County Budget, the following procedures should be followed in order to obtain budgetary authorization:

1. The requesting department must fill out a requisition form the requesting department shall include in the memo a cost estimate or quote justifying the need and a statement of whether there are available departmental funds that may be used for this purchase.
2. The requesting department must submit a description of the expenditure along with the cost to the County Auditor.
3. The Auditor will then present the request to the Court. The Commissioners Court will approve or decline the request. If approved, normal purchasing procedures apply. After the Commissioners Court has granted budget authorization, the item will be competitively bid if over \$50,000.

### **B. Acquisition under a Blanket Purchase Order**

#### **(1) Authorization of Blanket Purchase Order**

A Blanket Purchase Order authorizes a County department to obtain up to a specified amount of material (services or supplies) on a continuing basis from a vendor. Such Purchase Orders are authorized only by the Purchasing Division in appropriate circumstances, e.g., obtaining parts for vehicle maintenance as needed. Any department foreseeing a definite and regular need for items not available routinely should consider contacting the Purchasing Division to investigate obtaining a Blanket Purchase Order for such items. (See Section IV, E, p.12)

Blanket Purchase Orders anticipated to exceed \$50,000 during the course of a year must be competitively bid, as described in Section VII, B, p. 20. No Blanket Purchase Order may exceed budgeted funds for such purchases by the Department.

- (2) Utility Blanket Purchase Orders (if required by the utility provider) may be used for utilities expenses. i.e.; electric, water, gas and telephone.

### **C. Insurance and High Technology Items**

- (1) All Insurance specifications must be approved by the H/R Department, County Judge, County Auditor, and the Commissioners Court. Insurance items are obtained through the Formal Proposal Process (RFP).

- (2) High Technology items valued in excess of \$50,000 may be obtained through the sealed proposal process, sealed bid process or through the Texas Department of Information Services (DIR) or other cooperative contract. The Information Technology Department (IT) reviews all purchase requests (*regardless of value*) made by departments for software, hardware and other data processing equipment and provides a written assessment to the requesting department, Purchasing Office, and Commissioners' Court before court approval. This procedure is to ensure compatibility and standardization. It may provide the Purchasing Agent with a list of the goods and services that have been pre-approved and need no additional review. To purchase any other data processing goods or services, the user department must obtain IT approval.

*“High Technology Item”* means a service, equipment or good of a highly technical nature, including:

- (a) data processing equipment and software or firmware used in conjunction with data processing equipment, any devices connected to or used in conjunction with the county intra-net;
- (b) telecommunications, radio and microwave systems;
- (c) electronic distributed control systems, including building energy management systems; and
- (d) technical services related to the above items.

- (3) DIR Catalogue Purchasing Program

- (a) The requesting department must clearly and accurately describe the goods/services to be purchased
- (b) High Technology items may be purchased by RFQ through the DIR system.

### **D. Professional and Personal Services**

(1) Definition of Professional Services

Professional services are services provided by or within the scope of services provided by licensed physicians, optometrists, architects, certified public accountants, land surveyors, registered engineers and other professionals as set forth in Chapter 2254 of the Texas Government Code.

Professional services are procured through the Request for Proposal process. The selection of providers of professional services will be based on the competency of the firm or individuals, not on competitive bidding. Departments requiring professional services must review the experience and capabilities of the prospective service providers through proposals and interviews. These services are procured in accordance with Chapter 2254 of the Government Code.

(2) Definition of Personal Services

Personal Services contracted to be performed by a specific person.

(3) Procedure for Procurement of Professional or Personal Services

(a) Solicitation of Proposals

After approval by the Commissioner's Court, purchasing will send the RFP to potential professional / personal service providers. The Purchasing Manager will order advertisement of the request. The service providers will submit proposals to Purchasing. Providers will not be required to propose fees in the initial response. Providers may be required to state projected number of hours or number of staff required to provide service requested. The Purchasing Division shall open proposals on the date specified in the request for proposals. **Opening of Proposals is Confidential** if identified as such in the proposal, and shall not be publicly disclosed except in compliance with the Texas Public Information Act, chapter 552 of the Texas Government Code, but the proposal shall be open for public inspection following award of the contract by the Commissioners' Court as to the extent allowed by law.

(b) Evaluation of the Proposals

Purchasing Division and submitting Department, along with selection committee, may conduct further discussions and negotiations with responsible providers after the opening. All providers will receive fair and equitable treatment with regard to such discussions and negotiations. An evaluation of proposals shall be made by the Purchasing Division or by committee appointed by the Commissioners Court. A proposal evaluation committee may be appointed by the Commissioners Court or County Judge. The evaluation of each service provider will cover at least the following:

General quality and responsiveness of proposals received,

Organization and personnel, proposed approach completion of project (hours to complete, number of staff assigned to project, etc.) and delivery schedule.

Professional Certifications held by the proposer.

Proof of general liability, workers compensation and professional insurance if applicable.

Once the Purchasing Division, Commissioners Court, or committee determines the best qualified proposer the Purchasing Division will enter into price negotiations with that proposer.

(c) Recommendation

After completion of evaluation, Purchasing will arrange an agenda date, notify the Department, and transmit the recommendation to the Commissioners Court.

The Commissioners Court with the approval as-to-form from the District Attorney will award the contract. The County Judge must sign the contract.

The County Judge must approve any exceptions to the procedures outlined above for professional services, in writing. On a case-by-case basis, the County Judge will determine whether to approve exceptions to these procedures.

(4) Confidentiality of Proposals

The Caldwell County Purchasing Office uses a confidentiality memorandum (Exhibit "B") to ensure compliance with the ethics policy for keeping proprietary information confidential. Before the evaluation of confidential proposals, Purchasing sends a memorandum to evaluation committee members for signature and certification. The memorandum contains the following requirements to which the evaluation committee member is expected to adhere during the course of the competitive process and **until an award is approved by the Commissioners Court.**

All information in the vendor's response is to be kept confidential.

- No discussion of the proposal is to occur with anyone outside of the proposal evaluation committee members.
- Proposal responses are not to be reproduced and should be returned to the designated Purchasing staff after evaluation is completed.
- Purchasing is the sole point of communication for any questions from vendors that arise during the evaluation. All questions and requests for information should be referred to Purchasing. There should not be any discussions between evaluation committee members and vendors during the evaluation and award process.
- Evaluation committee members must be familiar with and read the Caldwell County Purchasing Code of Ethics and agree to comply with its requirements including reporting any potential conflict of interest, undue influence from vendors, or attempted communications from vendors during the evaluation process. Compliance with the requirements outlined in the Confidentiality Memorandum is crucial. If proprietary information of any vendor is compromised during the procurement process all proposals may be rejected.

## **E. Emergency Purchases [LGC §262.024 (1) (2) (3)]**

Emergency purchases are authorized in extremely limited circumstances:

- (a) in the event of public calamity for the benefit of the county citizens or to protect public property;
- (b) in order to protect the public health or safety of county residents; or
- (c) when made necessary by unforeseen damage to public property.

Depending upon the time of the emergency and type of purchase necessary, one of the following procedures should be followed:

- (1) After-hours emergency -- in such instances the department must take the necessary action to obtain the needed goods or services. If, however, the department is aware that the purchase involves an expenditure of \$50,000 or more, a reasonable effort should be made to contact the County Judge to notify him or his designated representative that the emergency exists. The next working day the department should contact Purchasing to obtain a requisition and purchase order; procedures applicable to phone in purchase orders may be followed.
- (2) Emergency during working hours -- (a) If the purchase is for less than \$50,000 and budgeted funds are available, phone-in purchase order procedures may be utilized; (b) if the purchase is less than \$50,000 and funds are not available, approval of the County Judge must be obtained by Purchasing prior to acquiring the item using the phone in purchase order procedure; (c) if there needs to be a purchase made immediately that needs Commissioner's Court approval the county is authorized to draft a memo with county letter head, justifying the immediate need of purchase. This memo must be signed and dated (time stamped) by three (3) of the five (5) Commissioner's Court members, and the County Auditor must be notified immediately; or (d) if the purchase is in excess of \$50,000, Purchasing Department must obtain approval of 3 members of the Court for the purchase and then utilize phone in purchase order procedures. All of which must then be ratified through the next Commissioner's Court.

## **F. Sole-Source Purchases**

An item valued in excess of \$50,000, which would otherwise be purchased by competitive bidding, may be purchased without the necessity of bidding if it is available from only one source. Typical items in this category include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts or components for equipment, and films, manuscripts, or books. Such items may be purchased from a sole source without competitive bidding only after Purchasing, in writing, certifies the existence of only one source to the Commissioners' Court and the Court enters a finding of such in its minutes.

Any item with a value less than \$50,000 may also be purchased from a sole source vendor. Any department wishing to declare a vendor as a sole source should make a notation on the requisition to that effect. The department shall forward in writing, to the Purchasing Division a statement detailing why the vendor is to be considered sole source. The Purchasing Division may approve the sole source requirement or may place the department request on the agenda for the Commissioners Court to approve.

## **G. Equipment Maintenance**

Maintenance service on County owned equipment is arranged through Purchasing. The department requiring maintenance should contact Purchasing, which will issue a Purchase Order to the appropriate vendor. Vehicle and equipment repairs is exempted from competitive bidding by Texas Local Government Code Section 262.024(11).

- (1) Equipment under warranty or existing maintenance contract -- Department will contact the appropriate vendor and arrange for the service. After the equipment is serviced, the Department should forward the service ticket to Auditing for processing. If the service was performed as a “No Charge” warranty, Auditing will not require a service ticket.
- (2) Service of Other Equipment
  - (a) Department will contact vendor(s) and obtain estimate(s) of cost. If estimated cost is not justified (e.g., cost of repair exceeds replacement cost or value of equipment), Department will advise the Purchasing and declare the equipment surplus. If the Department objects to the equipment being declared surplus, the final decision on whether or not to declare the equipment surplus will be made by the Commissioners Court.
  - (b) If the cost of maintenance is justified, Purchasing will prepare a purchase order, notify the vendor of the purchase order, and arrange for the service.
  - (c) After the equipment has been serviced, the Department will forward the service ticket to Auditing.

## **H. Impracticality of Preparing Detailed Specifications**

If Purchasing determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, Purchasing shall notify Commissioners Court that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, Commissioners’ Court shall instruct Purchasing to follow purchasing procedures as prescribed in Texas Local Gov’t Code § 262.0295 Alternative Multistep Competitive Proposal Procedure.

## **IX.**

### **INSPECTING, TESTING AND RECEIVING**

- A.** Receiving – All orders and shipments will be received by the purchasing department and will be distributed to the requesting department by the purchasing staff after it has been determined if the received item needs Caldwell County inventory tags.
- B.** It is the responsibility of each County department to see that all purchased items conform to the quantity, quality and specifications of the order. After delivery of the merchandise to the requesting department, the department must determine whether the goods are acceptable. If they are not, the Receiving Department must immediately notify Purchasing of the reasons why the

merchandise is not acceptable. The Purchasing Department will then require a replacement, cancel the order, or take other appropriate action to obtain correct merchandise from the vendor.

**X.**

## **COUNTY-OWNED SUPPLIES AND EQUIPMENT**

All County-owned supplies, equipment and machinery must be used only for County business. **Elected Officials and Department Heads are responsible for the proper accounting for, maintenance of and use of County equipment.**

### **A. Receipt of New Property – Tagging**

Caldwell County uses an inventory tagging system. A bar code tag is placed on all new County property as soon as it is received. Each receiving department should contact the County Purchasing Office upon receipt of any new equipment for tagging instructions and bar code tags.

### **B. Elected Official and Department Head Responsibility**

Each Elected Official and Department Head is responsible for the custody and care of county property assigned to their respective department. County property may be used only for County purposes. Each Elected Official and Department Head is responsible for ensuring that assets are tracked and secured in a manner that is most likely to prevent theft, loss, damage or misuse of assets. Care shall be taken to insure all necessary precautions are in place so that assets are secured.

### **C. Controlled Property**

Each Elected Official and Department Head shall maintain control over property not defined under the capitalization policy, yet considered high-risk items. High-risk items include, but are not limited to, weapons, electronics, tools, and computer peripherals. Each Elected Official or Department Head to track such items shall establish internal procedures. The County Auditor upon request by the Commissioners Court shall make reports of high-risk items available for inspection.

The IT Department shall maintain an inventory of all computer equipment for the purpose of tracking and maintenance. This inventory does not absolve Elected Officials and Department Heads from the responsibility of assuring stewardship of the property or the reporting requirements for the property.

### **D. Transfer of Equipment from one Department to Another: (Local Gov't Code § 262.011(j))**

The Purchasing Agent has control over the transfer of equipment from one department to another, with the approval of the Commissioners' Court. (See Section 262.011 (i) – Local Government Code of Texas).

A department does not have the authority to transfer equipment from one department to another, destroy, throw away, or discard equipment. A request to make a transfer or dispose of equipment shall be submitted to the Purchasing Department and with proper approval may then be transferred. After approval by the Purchasing Agent, the transfer of assets will take place, at which time both departments will sign the form. Otherwise, the department head is responsible for all equipment assigned to his/her department. County assets are required to be used for county purposes only. When equipment is taken off county premises for reasons other than transfers or final disposition, then a formal request and formal approval from the department head or designee must be obtained. This includes situations when assets are taken off-site for repairs. The temporary removal must be documented and a log should be maintained to indicate who accepted responsibility for the item being removed.

A fixed asset transfer occurs when a department agrees to give an asset to another department or a department transfers a fixed asset to a new location within the department. A fixed asset transfer form shall be completed for each occurrence. The form must have all applicable signatures of the officials receiving and transferring out the assets, the date, description, serial number and permanent tag number of the items being transferred (Ref: Form FA.003).

## **E. Missing Property**

The user department shall contact the Purchasing Department when an item is identified as “missing” and the department cannot prove that theft occurred. Assets identified as “missing” shall not be immediately removed from the inventory listing, but shall be retained until a thorough search can be made to determine that the asset is not located elsewhere in the county. The user department is required to make a thorough and adequate search for the missing item and document steps taken to locate the asset. After the initial physical inventory certification is provided to a County Department, Items not located during subsequent inventories will be subject to a timeframe before allowing any removal of assets from inventory. To allow sufficient time to find non-located equipment, “missing” assets will be retained on the inventory list for a minimum of one year. The responsible department is required to make a thorough and adequate search for all missing items. After three successive inventories in which a missing item is not located, the responsible Elected/Appointed Official or Department Head shall provide a memo to the Purchasing Agent and the Commissioners’ Court outlining the circumstances surrounding the missing item. Stolen Assets, Scrap Metal, Disposition by Destruction.

## **F. Disposal of Surplus or Salvage Property (Local Gov’t Code §§ 263.151-.158)**

The Purchasing Manager may periodically request that the Commissioners’ Court declare property “surplus” (in excess of needs, but still useful) or “salvage” (valueless property). Surplus or salvage property may be sold by competitive bid or auction by Purchasing as provided in subchapter D of chapter 263 of the Local Government Code. Surplus or salvage property is not limited to capital items as defined herein.

County employees will be given the same opportunity afforded to other persons to bid on and purchase surplus properties offered by sealed bid or at a public sale or auction. Purchasing Division employees (directly or through third party) **may not** bid on items sold at auction.

No Purchasing employee or his or her immediate family may bid on property sold through a Sealed Bid Sale. Purchasing employees may not knowingly purchase or receive merchandise through a third party through a Sealed Bid Sale.

Caldwell County may sell or donate surplus or salvage property to another county, political subdivision or non-profit organization within the county, or offer the property as a trade-in for new property of the same general type with approval of the Commissioners Court. The Commissioners Court may order the property to be destroyed or disposed of if bids are not received from a public auction or sealed bid sale.

### **G. Inventory Arrangements – Resignation, Retirement or Removal**

When an Elected Official or a Department Head leaves his or her County employment, arrangements must be made with Auditing for an inventory far enough in advance to insure that the inventory can be taken before the termination date. The Auditor / Purchasing Division will provide to the Commissioners Court a full report, noting any discrepancies between property actually located and property listed on the inventory. The Elected Official or Department Head will be personally accountable to the Court for all missing items.

### **H. Annual Inventory**

Caldwell County uses a third-party contractor to take an annual inventory. All Elected Officials and Department Heads are required to fully cooperate with the annual inventory and to notify both the Auditor’s Office, County Judge, and the third party contractor of any missing items discovered during the inventory. All Elected Officials and Department Heads are encouraged to have personnel available to assist the third party contractor in completing the inventory.

## **XI.**

### **LEGAL BASIS FOR PURCHASING**

#### **A. Government Code Ch. 2254 -- Professional Services Procurement Act**

Counties may not bid contracts for professional services. These contracts instead must be awarded on the basis of “demonstrated competence and qualification for the type of professional services to be performed.” Fees must be “fair and reasonable,” consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law. “Professional services” includes services within the scope of the practice of: accounting, architecture, optometry, professional engineering; this includes services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or registered professional engineer in connection with his or her professional employment or practice.

#### **B. Local Gov’t Code Ch. 271, Subchapter D -- Purchase Under State Contract**

The State Purchasing and General Services Commission may perform purchasing services for local governments (including counties). The county may participate by adopting a resolution. The contents

required in the resolution are stated in the statute. A county that purchases under state contract satisfies all competitive bidding laws. As per Resolution #11132007 adopted by the Commissioners Court 11/13/07.

### **C. Local Gov't Code Ch. 171 -- Conflict of Interest**

Ownership of certain property or business interests may require that a local public official refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision or act involves the business interests or property owned by the public official or by a person related to the public official within the second degree of consanguinity or affinity.

“Local public official” includes members of the county governing body or other county officers, whether elected or appointed, paid or unpaid.

A person is deemed to have a substantial interest in a business entity “if”:

- (1) Ownership of ten per cent (10%) or more of voting stock or shares of the business entity, or ownership of \$15,000 or more of the fair market value of the business entity; or
- (2) Proceeds received from the business entity exceed ten per cent (10%) of the person’s gross income for the prior year.

A person is deemed to have a substantial interest in real property if the interest, whether involving equitable or legal ownership, has a fair market value equal to or exceeding \$2,500. A local public official is deemed to have a substantial interest in the business entity or in land if a person related to the official within the first degree by consanguinity or affinity has a substantial interest in said business entity or land as defined above.

If the local public official has a substantial interest in a business that seeks to do business with the county, the official must file with the county clerk an affidavit stating clearly the nature and extent of his interest. The public official must then abstain from participation in any matter involving or between the county and the business in which he has the substantial interest. In particular, this includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business or contracts with the county. An official may not knowingly act as a surety on any official bond required of an officer of the county. A violation of any of these is a crime.

The County Commissioners Court may, however, contract for services or personal property with a business entity in which a member of the court has a substantial interest if the business entity (1) is the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners Court, and (2) bids on the contract.

The Commissioners Court must take a separate vote on any budget item that is specifically concerned with a contract involving a business entity in which a member of the Court has a substantial interest. The Commissioner having the substantial interest may not participate in that

separate vote; he may, however, vote on the final budget if: (1) he has otherwise complied with the requirements of Chapter 171, some of which are indicated above, and (2) the matter regarding the business entity with which the member is concerned by virtue of his substantial interest has been resolved.

#### **D. Local Gov't Code Ch. 262, Subchapter A -- County Contracting Agent**

The Commissioners' Court may at its discretion appoint an agent with authority to contract on behalf of the county for (1) erecting or repairing county buildings; (2) supervising same; or (3) any other purpose authorized by law. Any contract or other act of such an agent that is properly executed on behalf of the county and is within the agent's authority is binding on the county for all purposes. (Formerly article 1580)

#### **E. Local Gov't Code Ch. 262, Subchapter B -- County Purchasing Agent Or County Purchasing Manager (Attorney General Opinion No. JC-0264 (2000)).**

Pursuant to Chapter 262 of the Local Government Code, a committee composed of the County Judge and the district court judges for the County may appoint a Purchasing Agent. The Commissioners Court may, at its discretion, appoint a Purchasing Manager to assist it in the purchase of goods and services for the County in lieu of having a Purchasing Agent appoint by the committee. The Commissioners Court has implied authority to employ persons necessary to carry out county business and therefore may hire an employee to assist the Commissioners Court and other departments with their purchasing needs (See Attorney General Opinion No. JC-0264 at 3, 4 (2000)). The Court, however, may not delegate to the employee authority to enter into contracts and bind the county. This authority still resides in the Commissioners Court. The employee, however, may carry out the ministerial duties associated with purchasing goods and services. (JC-0264 at 4).

The purchaser's term of office is two (2) years. A \$5,000.00 performance bond is required of the agent. If appointed, the county purchaser should purchase supplies; materials and equipment required or used by the county, except purchases and contracts that are required to be obtained by competitive bid. The Purchaser also supervises all purchases made by competitive bid.

The Agent has a number of other duties that are specifically set out in Chapter 262, Sub.ch. B. e.g., the County Purchaser may cooperate, by means of an inter-local agreement with another County, City or ISD purchaser to purchase items in volume. The County Purchaser is responsible for filing with the County Auditor, the Commissioners Court an inventory of all county property on hand and belonging to the county.

In order to prevent unnecessary purchases, the county purchaser shall transfer any county supplies, materials and equipment from any department not needing them to another department requiring them. Upon so doing, the purchaser shall furnish the departments with a form to sign to transfer such item.

The County Purchaser may have assistants. The agent and his/her assistants may have any help, equipment, supplies and/or traveling expenses that may be approved and considered advisable by the Commissioners Court.

## **F. Local Gov't Code Ch. 263, Subchapter D -- Disposition of Salvage or Surplus Property**

Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

Surplus or salvage property may be sold by competitive bid or may be auctioned. It also may be offered as a trade-in on new property of the same general type. If the Commissioners' Court cannot sell or trade in the property, the property can be destroyed.

## **G. Local Gov't Code Ch. 262, Subchapter C -- County Purchasing Act (Competitive Bidding)**

Chapter 262, entitled Purchasing and Contracting Authority for Counties, is a comprehensive county purchasing statute. The statute includes, among other things,:

1. Competitive bidding requirements, procedures and exemptions;
2. An alternative competitive request scheme and proposal procedure for insurance or high technology items (see Local Gov't Code § 262.030); and
3. Bond requirements for bidders (see Local Gov't Code § 262.032).
4. Certain Exemptions (see Local Gov't Code § 262.024)

The competitive bidding procedures must be strictly complied with except for certain specific exemptions enumerated in the statute. These include certain emergencies and cases involving sole suppliers. Failure to follow the bidding requirements of the act may subject the contract to injunction to prohibit its performance. (See Local Gov't Code § 262.033).

All separate, sequential or component purchases of items ordered or purchased by the same officer or department from the same supplier in any attempt to avoid the bidding requirements are treated as parts of a single purchase or contract. (See Local Gov't Code § 262.023(c)). Any county officer or employee who knowingly or intentionally makes or authorizes separate, sequential or component purchases in avoidance of the competitive bidding requirements is guilty of a Class B misdemeanor. Automatic and immediate removal of the officer or employee from his county office or position results upon final conviction of an offense under Chapter 262 of the Local Government Code.

**Intentional or knowing violation of the subchapter is a Class C misdemeanor.**

## **H. Local Gov't Code §111.093 & Ch. §113 -- Approval of Claims by County Auditor**

According to Texas Local Government Code section §111.093, the County Auditor shall:

- Charge all purchase orders, requisitions, contracts, and salary and labor allowances to

the appropriate account, and

- Certify the budget contains an ample provision for the obligation and that funds are or will be available to pay the obligation when due.

Each claim, bill and account “against the county” must be filed with the county auditor, allowing sufficient time for the auditor to “examine and approve” the claim before the meeting of the Commissioners Court at which time it is to be approved. Such claim, bill or account may not be paid or allowed until it has been “examined and approved” by the county auditor. Local Gov’t Code § 113.064(a). The auditor may not audit or approve a claim unless the claim was “incurred as provided by law.”

The auditor may not audit or approve and account (i.e., claim) for the purchase of supplies or materials for the county unless a requisition properly signed by the officer ordering the supplies or materials and approved by the county judge is attached to the account (claim). Local Gov’t Code § 113.901(a). The county judge may, by written order, waive the requirement that he approve requisitions. If this approval requirement is waived, all claims must be approved by the Commissioners Court in open court.

## **XII.** **PURCHASING DIVISION MISSION STATEMENT**

The Purchasing Division is committed to procuring goods and services in the most efficient and effective way to achieve the best price consistent with the quality needed to meet the requirements of the County, as purchasing professionals:

- Seek to maximize the purchasing power of public funds, while promoting fair and open competition.
- Work together to create innovative approaches to the procurement process for the benefit of the County.
- Follow a strict *Code of Ethics*, avoiding the appearance of and preventing the opportunity for favoritism.
- Strive to create a friendly work environment through teamwork, respect, integrity and honest communication.
- Ensure compliance with the County Purchasing Act as well as other state and federal laws applying to county purchasing.

- Provide equal access to all vendors, participating through competitive acquisition of goods and services.
- Provide an ongoing supply of quality goods and services to all County offices.
- Account for all County assets through an effective fixed asset management system.
- Protect the interests of Caldwell County taxpayers without regard to any undue influence or political pressures.

### **XIII.** **DO'S AND DON'TS OF PURCHASING**

#### **A. Don'ts**

Coordination among many County departments and Offices is necessary for the process to work smoothly. To avoid delays and comply with County policy and state law, user departments should remember the following:

- Do not authorize the purchase of any goods or services.
- Do not purchase any goods or services for your own personal benefit.
- Do not obligate the purchase of goods that are delivered for use on a trial basis.
- Do not commit to acquire goods or services without an authorized purchase order.
- Do not use purchasing strategies that violate the law to avoid competition.

Strategies that are prohibited by law include:

- purchasing a series of component parts that would normally be purchased as a whole (component purchases);
- purchasing items in a series of separate purchases that normally would be purchased as a single purchase (separate purchases); and
- purchasing over a period of time, that normally would be done as one purchase (sequential purchases).

A county officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Texas Local Government Code § 262.023 is committing a Class B misdemeanor according to Texas Local Government Code § 262.034(a).

- **Do not violate or authorize the violation of the Purchasing Act.** Any person who knowingly violates or authorizes the violation of the Purchasing Act and any county or precinct person who fails to use the Purchasing Manager for purchases, including an agent or employee of the County or of a department of the County commits a criminal offense which is a misdemeanor. Each act in violation of the law is a separate offense. Anyone obligating an expenditure of funds for goods or services before securing a purchase order may be held personally responsible for the payment.

## B. Do's

- **Adhere to the County Purchasing Code of Ethics and avoid activities and behaviors that are unethical or create a conflict of interest or the perception of a conflict of interest.**

Examples of activities that are inappropriate include:

- soliciting or accepting gratuities of any kind from present or potential contractors which might influence or appear to influence a purchasing decision;
  - failing to disclose in writing to the Purchasing Manager a conflict of interest and not removing yourself from the procurement process when there is a conflict; and
  - disclosing confidential proprietary information from solicitations to other vendors or using the information for personal gain.
- **Ensure funding is available before submitting a requisition.** The law does not allow expenditures that exceed budgets. Purchasing does not process requisitions for which there is not adequate funding.
  - **Plan purchases to minimize the use of emergency and expedited purchases.** Rush purchases are generally more expensive and they delay other requisitions already in the system. Vendors may attempt to charge premium prices for goods and services when there is insufficient time allowed to explore alternative sources or options.
  - **Plan purchases to allow sufficient time to process purchase requests.** The Purchasing Office is committed to processing all requisitions within a reasonable amount of time. In general, departments should allow 2–3 weeks for all non-contract purchases under \$25,000 and 6–8 weeks on all purchases requested over \$50,000 that are not covered by an existing contract. Contract requisitions and requisitions less than \$500.00 are generally processed within one day of receipt.
  - **Ensure that purchasing policies and procedures are understood before ordering.** Departments must assure that all employees responsible for making department purchase requests (“purchasing liaisons”) have read and understand the purchasing procedures in this manual. Departments should also ensure that liaisons attend any training provided by the Purchasing Office.
  - **Coordinate with Purchasing on receipt of goods and services.** Since the County does not have centralized receiving, each department is responsible for individually receiving goods and services. Departments should contact the individual listed as the buyer on the purchase order to make Purchasing aware of vendor performance issues such as shortages, late delivery, or damaged merchandise. If the item received is a fixed asset that must be tracked and reported, departments should contact the Purchasing Manager to coordinate tagging.

## XIV.

## DEFINITIONS

**Advertisement** – A public notice put in a newspaper of general circulation containing information about a solicitation in compliance with legal requirements.

**Alternate Delivery Method** – A method of procuring construction services other than “traditional” competitive bidding. Methods may include design build, construction manager (either at risk or as agent), and job order.

**Amendment/Addendum** – A document used to change the provisions of a Solicitation. Addendum is the preferred term in the Construction Industry.

**Annual Term Contract** – A recurring contract for goods or services, usually in effect on a 12 month basis.

**Auditor** – Caldwell County Auditor and designated representatives.

**Best Value** – The best available offer, in the county’s best interest. Based on all factors including software cost, hardware costs, overall life cycle cost of equipment, the estimated cost or increased cost of employee training, employee productivity, installation and maintenance costs.

**Bid Deposit** – A deposit required of bidders to protect the county if a low bidder withdraws its bid or fails to enter into a contract. Acceptable forms of bid deposits are limited to: cashier’s check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on a US Department of the Treasury’s listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

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

**Bidders List** - An automated list of vendors who stated in writing an interest in submitting bids for particular categories of goods and services.

**Centralized Master Bidders List (CMBL)** – A list maintained by the Texas Building and Procurement Commission containing the names and addresses of prospective bidders.

**Change Order** – A document used in construction contracts to change the contract by modifying the specifications, increasing or decreasing the cost, adjusting the time for performance or changes the goods or services to be delivered.

**Civil Attorney** Caldwell County Criminal District Attorney or designated representatives.

**Commissioners’ Court** – Caldwell County Commissioners Court.

**Commodity Code** – The accounting system classification of goods and services with a unique number assigned to each description.

**Competitive Bidding** – Process that allows available vendors to compete with each other to provide goods or services.

**Competitive Proposal Process** – Process that allows available vendors to compete with each other to provide goods and services that permits flexibility in product solicitation and negotiation in compliance with Tex. Loc. Gov’t Code § 262.030.

**Component Purchases** – A series of purchases of component parts of goods that are normally purchased as a whole.

**Consultant** – A person who provides or proposes to provide advice and counsel in a specialized area.

**Contract** - A formal, written agreement executed by the county and a vendor containing the terms and conditions under which goods or services are furnished to the County which commits the County's funds.

**Contractor** A vendor that has been awarded a contract by Caldwell County.

**County** Caldwell County.

**County Clerk** Caldwell County Clerk or designated representatives.

**County Purchasing Act** – Chapter 262, subchapter C of the Texas Local Government Code, which governs the conduct of purchasing activity for Texas counties.

**Customers** The county's departments and officers

**Cycle Time** The time between when a purchase requisition is received in the Purchasing Office and placement of a purchase order with a vendor. Cycle time does not include the time required for delivery or the time it takes for the Purchasing Office to obtain corrections to line item accounts, commodity codes, and other necessary information.

**Design Build Contract** – A single contract with a vendor for the design and construction of a facility that includes an engineer or architect and builder qualified to engage in building construction in Texas.

**Design Criteria Package** – A set of documents that provides sufficient information to permit a vendor to prepare a response to County request for qualifications and any additional information requested, including criteria for selection.

**Department** - All county and precinct offices and subdivisions of them, as well as district offices and subdivisions when the purchases are funded even partially with county funds.

**Emergency Purchase** – An item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county.

**Employee** – Any county or precinct elected official, appointed official, or employee and any district elected official, appointed official or employee when the purchase is funded even partially with county funds or anyone who acts on behalf of any of them.

**Formal Competitive Bidding** –The bidding process in compliance with the County Purchasing Act which requires approval by the Commissioners' Court.

**Goods** – Any personal property purchased by the County, including equipment, supplies, material, and component or repair parts.

**Invitation For Bid (IFB)** – Specifications and formal bidding documents requesting pricing for a specified good or service which has been advertised for bid in a newspaper.

**Items** – Any service, equipment good or other tangible or intangible personal property, including insurance and high technology items. This does not include professional services as defined by Texas Government Code, Section 2254.002.

**Lease** – A contract for the use of personal property for a period of time in return for a specified compensation.

**Lowest Responsible Bid** – The offer from a bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid and includes any related costs to the county in a total cost concept and who has the financial and practical ability to perform the contract and whose past performance complies with the contract.

**Modification** – A document used to change the provisions of a contract.

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

**Occupant Department** – The department that ultimately uses the finished goods or services when the purchase or construction is completed, which may be different from the user department.

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

**Payment Bond** – A surety bond executed in connection with a contract that secures the payment requirement of the contractor.

**Performance Bond** – A surety bond that provides assurance of a bidder’s performance of a certain contract.

**Pre-Bid/ Proposal Conference** – A conference conducted by the Purchasing Office for the benefit of those wishing to submit a response for services or supplies required by the County which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.

**Professional Services** – Services directly related to professional practices as defined by the Professional Services Procurement Act, chapter 2254 of the Texas Government Code, including those services within the scope of the practice of architecture, land surveying; and professional engineering.

**Proprietary Information** – Information provided in responses to solicitations to which vendor claims ownership or exclusive rights and which is protected from disclosure under the Texas Public Information Act, chapter 552 of the Texas Government Code.

**Public Works** - Constructing, altering, or repairing a public building or carrying out or completing any public work.

**Purchase Order** – An order by the Purchasing Office for the purchase of goods and services written on the county's standard Purchase Order form and which, when accepted by the vendor without qualification within the specified time limit, becomes a contract or an amendment to an existing contract which operates as the vendor's authority to deliver and invoice for goods or services specified, and is the County's commitment to accept the specified goods or services for an agreed upon price.

**Purchase Requisition** – An automated request from a user department submitted to the Purchasing Division that authorizes the Purchasing Division to enter into a contract with a vendor to purchase goods or services for the County and authorizes the Auditor to charge the appropriate department budget and which is for internal use and cannot be used by a department to order materials directly from a vendor.

**Purchasing** – The acquisition of goods and services including construction and professional services.

**Purchasing Act** – The County Purchasing Act, chapter 262, subchapter C of the Texas Local Government Code, which governs the conduct of purchasing activity for Texas counties.

**Purchasing Manager** – A person appointed by the County to obtain contracts on behalf of the County for: (1) erecting or repairing a county building; (2) supervising the erecting or repairing of a county building; or (3) any other purpose authorized by law, all of which must be approved by the Commissioner Court.

**Purchasing Laws** – The laws that govern county purchasing including the following statutes:

- **County Purchasing Act**, Texas Local Gov’t Code chapter 262, subchapter C
- **Contracting and Delivery Procedures for Construction Projects**, Texas Government Code, Chapter 2269
- **Public Property Finance Act**, Texas Local Gov’t Code chapter §271, subchapter A
- **State Contract**, Texas Local Gov’t Code §§ 262.002, 271.083
- **Texas Council on Purchasing from People with Disabilities**, Texas Human Resources Code chapter 122.
- **Interlocal Cooperation Act**, Texas Government Code chapter 791
- **Prompt Payment Act**, Texas Government Code chapter 2251
- **Bidders from other States and Retainage**, Texas Government Code chapter 2252
- **Public Works Performance and Payment Bonds**, Texas Government Code chapter 2253
- **Professional Services Procurement Act**, Texas Government Code chapter 2254, subchapter A
- **Prevailing Wage Rates**, Texas Government Code chapter 2258
- **Sales tax exemption for governmental entities**, Texas Tax Code § 151.309

- **Worker's Compensation reporting requirements**, Texas Administrative Code title 28 § 110.110
- **Uniform Electronic Transactions Act**, Texas Business and Commerce Code chapter 332
- **Resolution of Certain Contract Claims Against the State**, Texas Government Code, Chapter 2260
- **Disclosure of Interested Parties**, Texas Government Code, § 2252.908
- **Disclosure of Certain Relationships with Local Government Officers**, Texas Local Government Code, Chapter 176 as amended by HB 23

**Purchasing Office** – Caldwell County Purchasing Division and its staff.

**Purchasing Liaisons** – designated purchasing contact within each department

**Request for Information (RFI)** – A general request to contractors for information for a potential future solicitation which is used as a research and information gathering tool for preparation of specifications and requirements.

**Request for Offer (RFO)** – A process for soliciting offers from at least three catalog vendors authorized by the Purchasing Policy and Procedures Manual Definitions.

**Request for Proposal (RFP)** – A document requesting an offer from vendors, which allows for negotiations after a proposal has been received and before award of the contract for goods and services procured in compliance with Texas Local Gov't Code §§ 262.0295 and 262.030.

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

**Request for Services (RFS)** – A document that requests information about qualifications and details of services to be provided and costs for other professional services that are not covered by in the Professional Services Procurement Act, but may be exempted from competitive solicitation under the County Purchasing Act.

**Responsive** – A vendor who has complied with all material aspects of the solicitation document, including submission of all required documents.

**Responsible** – A vendor who has the capability to perform fully and deliver in accordance with the contract requirements based on consideration of past performance, financial capabilities, and business management.

**Sealed Bids** – Offers in response to an Invitation for Bids that is advertised in a newspaper and submitted to the Purchasing Office in a manner that conceals the price.

**Separate Purchases** – Acquisitions made in a series of different orders for goods and services that in normal purchasing practices that would be purchased in a single order.

**Sequential Purchases** – Acquisitions made over a period of time that in normal purchasing practices, would be made at one time.

**Services** – The furnishing of labor by a contractor that does not include the delivery of a tangible end product and includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal or professional services.

**Sole Source Good or Service** – A good or service that can be obtained from only one source that is purchased in compliance with Texas Local Gov't Code § 262.024.

**Solicitation** – A document, such as an invitation for bid, request for proposal, request for offers or request for qualifications, issued by the Purchasing Office that contains terms and conditions for a contract solicits a response from vendors to provide goods or services needed by the County.

**Solicitation Conference** – A meeting chaired by purchasing staff, designed to help potential vendors understand the requirements of a solicitation. Also known as a pre-bid or pre-proposal conference.

**Specifications** – A total description of a good or service to be purchased by the County, and the requirements the vendor must meet to be considered for the contract which may include requirements for testing, inspection, or preparing any good or service for delivery, or preparing or installing it for use.

**User Department** – The department from whose budget line item the contract is paid.

**Vendor** – A business entity or individual that seeks to have or has a contract to provide goods or services to the County.

### **Additional Resources**

For additional information, the following are listed as references:

*The Model Procurement Manual for Texas Cities and Counties*, March 2005, Carole Keeton Strayhorn, Texas Comptroller,

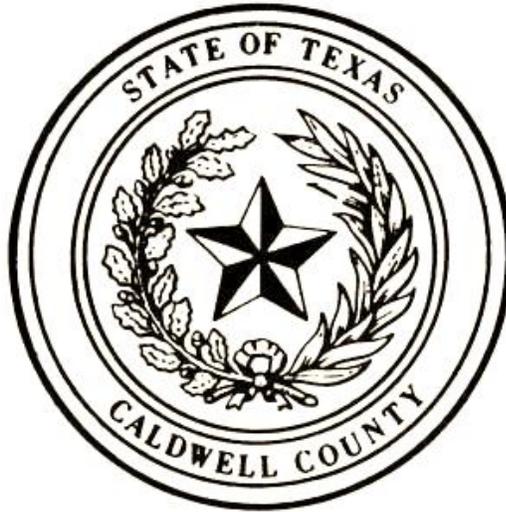
<http://www.window.state.tx.us/lga/purchasing/96449.pdf>

*The State of Texas Contract Management Guide*, Version 1.1,

<http://www.tbpc.state.tx.us/stpurch/ContractManagementGuide11.pdf>

*The American Bar Association's 2000 Model Procurement Code for State and Local Governments*,

<http://apps.americanbar.org/dch/committee.cfm?com=PC500500>



# **CALDWELL COUNTY, TEXAS**

**PURCHASING CODE OF ETHICS**

**&**

**CONFLICT OF INTEREST**

## **PURCHASING CODE OF ETHICS**

A special responsibility is imposed on all people who are entrusted with the disposition of the government funds. As purchasing personnel, we are required to perform with the highest integrity while we are constantly being asked to manage more effectively, to secure better economic results, to speed up the process, and to be innovative in accomplishing our mission. Elected and appointed officials as well as all county employees are entrusted with the safety and welfare of its constituents. In return, the constituents expect that their government employee's private interest will not conflict with public business.

The nature of purchasing functions makes it critical that all players in the process remain independent, free of obligation or suspicion, and completely fair and impartial. Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules and responsibilities to govern the behavior of purchasing employees. Credibility and public confidence are vital throughout the purchasing and contracting system. Any erosion of honesty, integrity or openness tends to be more injurious to purchasing than to most other public programs. The shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following policies and procedures are set forth.

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

## **RESPONSIBILITY TO COUNTY**

Purchasing employees will avoid any activities that would compromise or give the perception of compromising the best interests of Caldwell County. Employees will not use confidential proprietary information for actual or anticipated personal gain and will reduce the potential for any charges of preferential treatment by actively promoting the concept of competition.

## **CONFLICT OF INTEREST**

Purchasing employees will avoid any activity that would create a conflict between personal interests and the interests of Caldwell County. Conflicts exist in any relationship where an employee is not acting in the County's best interest and may be acting in their own best interests or the interests of someone

associated with them. Such conflicts of interest would include being involved in any procurement activity in which:

1. The employee or any member of the employee's family has any financial interest pertaining to the Caldwell County procurement process;
2. A business or organization in which the employee, or any member of the employee's family, has a financial interest pertaining to the Caldwell County procurement process; or
3. Any person, business, or organization with whom the employee or a member of the employee's family is negotiating or has any arrangement concerning prospective employment;
4. Any private or professional activity would create a conflict between your personal interest and the interests of Caldwell County.

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

## **PERCEPTION**

Employees will avoid any appearance of unethical or compromising practices in all relationships, actions, and communications.

- Avoid the appearance of unethical or compromising practices in relationships, actions and communications
- Avoid business relationships with personal friends. Request a reassignment if the situation arises
- Avoid holding business meetings with suppliers outside the office. When such meetings do occur, the meeting location should be carefully chosen so as not to be perceived as inappropriate by other persons in the business community or your peers.

## **GRATUITIES**

Employees will never solicit or accept money, loans gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. Generally edible goods with a value of \$50.00 or less are acceptable if shared with the entire staff, the public and will not offend this prohibition unless it appears to influence a purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual should disclose the transaction to the Purchasing Manager or County Judge for interpretation.

Gifts offered exceeding nominal value should be returned with an explanation or if perishable either returned or donated to a charity in the name of the supplier. In the case of any gift, care should be taken

to evaluate the intent and perception of acceptance to ensure that it is legal, that it will not influence your buying decisions, and that it will not be perceived by your peers and others as unethical. Please consult the Purchasing Manager, Civil attorney, or County Judge for guidance on these issues.

### **BUSINESS MEALS**

For the most part Purchasing personnel should avoid going to eat with vendors or potential vendors; however, there are times when during the course of business it may be appropriate to conduct business during meals. In such instances, the meal should be for a specific business purpose, and the purchasing professional must pay for his or her own meal.

### **CONFIDENTIAL INFORMATION**

Maintain and practice, to the highest degree possible, business ethics, professional courtesy and competence in all transactions.

Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.

Adhere to and protect the suppliers business and legal rights to confidentiality for trade secrets, and other proprietary information.

Refrain from publicly endorsing products.

### **RELATIONSHIP WITH THE COUNTY**

Remain free of any and all interests and activities, which are or could be detrimental or in conflict with the best interests of Caldwell County. Refrain from engaging in activities where the buyer has a significant personal or indirect financial interest

### **RELATIONSHIPS WITH OTHER AGENCIES AND ORGANIZATIONS**

A purchasing employee shall not use his position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that he may represent.

All involvement and transactions shall be handled in a professional manner with the interest of Caldwell County taking precedent.