# ANDERSON COUNTY, TEXAS

# PURCHASING POLICIES
# AND
# PROCEDURES MANUAL

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# INTRODUCTION

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

County purchasing procedures are governed by Texas statutes; and these statutes, including interpretations of them made by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the procedures described in this manual are based on state law, this manual, in many instances, contains language taken directly from statutes, and paraphrases of and broad generalizations about Texas statutory law which have been included where appropriate to assist in applying the law in routine situations. **This manual cannot address every situation;** and when an unusual situation occurs or a difficult legal or factual problem arises, the exact statutory language must be reviewed and analyzed. In every situation, the final authority for county purchasing procedures is the law itself.

This manual is for the use of Anderson County officials and employees and is designed to assist them in complying with laws governing county purchasing and asset management procedures. <u>This manual does not create any rights of individuals or entities enforceable against Anderson County.</u>

# STATEMENT OF PURCHASING POLICY

It is the policy of Anderson County that all purchasing shall be conducted strictly on the basis of economic and business merit to best promote the interests of the citizens of Anderson County. Anderson County encourages free and unrestricted competition on all bid requests and purchases, ensuring the taxpayers the best possible return on each dollar. All contracts and purchases shall be handled so as to obtain the best value for the County, with bids or quotes solicited whenever practical. Elected officials or County employees shall not purchase supplies, materials, or equipment of any kind for personal use through Anderson County.

The responsibility of purchasing ultimately rests with the Commissioners Court. The Purchasing Agent, as an agent of the Commissioners Court, aids in the purchasing process but is subject to the Court's directions as to reasonable specifications and maximum prices on items to be purchased. Purchasing is reviewed by the County Auditor acting as the Purchasing Agent.

The County strives to develop effective relationships with vendors and encourages full and open competition wherever possible. All vendors are afforded equal opportunity to participate in public bidding. To accomplish this intent, all contracts between the County and the vendor should be coordinated through the purchasing department.

The Texas State Legislature has passed and made a part of the Local Government Code, Section 262, more commonly known as the County Purchasing Act. It shall be the policy of Anderson County to fully comply in all aspects with the rules, regulations, and procedures, as they appear and are amended from time to time, in the act.

Furthermore, it is the intention of the Anderson County Commissioners Court that all individuals within each department directly or indirectly involved in the purchasing function shall follow the purchasing policies and procedures approved and adopted by the Commissioners Court as outlined in this manual.

# ETHICAL STANDARDS AND RELATIONSHIPS

Public employees should conduct themselves in such a manner as to foster public confidence in the integrity of Anderson County's purchasing process. To achieve this purpose, it is essential that persons or companies doing business with Anderson County observe the ethical standards prescribed:

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

B. It shall be a breach of ethics to attempt to influence any public employee of Anderson County to breach the standards of ethical conduct set forth in this code.

C. It shall be a breach of ethics for any employee of Anderson County to participate in directly or indirectly in a procurement when the employee knows that:

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

D. **Gratuities.** It shall be a breach of ethics to offer, give, or agree any employee or former employee of Anderson County, or for any employee of Anderson County to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendations, preparation of any part of a program requirement or purchase request, influencing the content of any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or contract or subcontract, or to any solicitations or proposals therefore pending before this County.

E. **Kickbacks.** It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or

higher tier subcontractor for any contract for Anderson County, any person associated therewithin, an inducement for the award of a subcontract or order.

F. It shall be a breach of ethics for any employee or former employee of Anderson County knowingly using confidential information for actual or anticipated personal gain, or the actual or anticipated gain of a person.

**Note:** *These common standards of ethics have been reproduced from the Model Procurement Code for State and Local Governments developed by the Texas State Comptroller's Office.*

# REQUISITION PROCESS

Local Government Code, Section 113.901 requires the use of requisitions. Pursuant to section 113.901(c), Anderson County has waived the requirement of the County Judge's approval on requisitions and has all claims approved by the Commissioners Court in open court.

A. The department head, or duly authorized person within the department, initiates, prepares, and signs the requisition. The department head is ultimately responsible for verifying that sufficient funds are available and can be held personally liable for expenditures in excess of their approved budget. A requisition shall be sent to the Auditor's Office and will then be converted to a purchase order.

B. Any commitment to acquire goods or services without an authorized purchase order is prohibited except as allowed in this manual and for emergency situations and/or in times when downtime of equipment or idleness of that equipment would result in unnecessary hardship or expense to the County. (See Emergency Purchase Orders.)

C. If a trade-in is involved, requisitions must identify the equipment number of the equipment to be traded. Items that lack an assigned equipment number should be identified on the requisition by the complete serial number, make, model and any other pertinent descriptive information.

D. Once the goods and/or services are received, the packing slip and/or invoice if available shall be signed and dated by the receiving department and forwarded to the Auditor's Office for processing.

# PURCHASE PROCESS

All purchases require a purchase order issued by the Auditor's Office unless listed under exemptions, or specifically exempted by law. By routing all purchases through the Auditor's Office, it becomes possible for purchases of similar goods and/or services to be identified and the purchases from the same vendor to be noted. In this manner it becomes possible to identify areas where competitive bidding or proposals will be required.

Any computer related purchased that will be installed or access the county network will need to be compliant with the Anderson County Information System Policy.

Unbudgeted Capital Expenditures – purchases not authorized in a department's current budget must be authorized through a budget amendment by the Commissioners Court prior to purchase.

## PURCHASE ORDER

The purchase order is a contract between the County and a vendor. A purchase order authorizes the vendor to both invoice and ship the materials or supplies specified. It is also the vendor's indication to expect timely payment if goods and/or services are rendered as specified on the purchase order. All purchases require a purchase order issued by the Auditor's Office prior to the purchase being made unless listed under exemptions, or specifically exempted by law. All purchase orders will be written concisely and clearly to avoid misunderstandings and unnecessary correspondence with vendors.

**Each Department Head is responsible for maintaining the integrity of his/her department budget. Anyone obligating an expenditure of funds for goods or services in excess of their allotted budget or prior to securing a purchase order may be held personally responsible for the payment.**

## PURCHASES OF $100,000 OR MORE

The Texas Local Government Code requires competitive bidding or proposals for all county purchases exceeding $100,000 in amount for a product or vendor. The law also prohibits the County from making a "separate, sequential, or component purchases to avoid the competitive bidding requirements". A violation is a Class B misdemeanor ($2,000 fine and/or 180 days in jail) and conviction results in immediate removal from employment and ineligibility for other public offices for four years (LGC Section 262.034).

Sealed competitive bids or proposals must be secured for all transactions reasonably anticipated to be equal to or in excess of $100,000 (annually county wide) unless offered on State contract or

Inter-local agreement. This category not only includes single product or service purchases, but several purchases with the same vendor for different products. Purchases from this category must have Commissioners Court approval prior to the issuance of the purchase order.

## PURCHASES LESS THAN $100,000

The purpose of this section is to provide guidance for the regulations that apply to purchase of material, equipment, supplies, repairs, and services that are not required by law to be bid. The general practice of the County shall be to accept the lowest responsible bid or price quotation as specified and on *equal* product standards. If the County receives two or more quotes or bids from responsible bidders that are identical in amount, as the lowest and best bid, the County shall select only one bidder by casting lots. All purchases require a purchase order issued by the Auditor's Office regardless of price unless listed under exemptions, or specifically exempted by law. **Purchase orders are issued prior to the purchase being made.**

**Purchases from $1.00 to $2,499 –**

Purchases $2,499 and below requires only a purchase order if adequate funds are available in the appropriate budget line item.

**Purchases from $2,500 or more, but less than $15,000 –**

For purchases of $2,500 or more, competitive quotations are encouraged, but not required. Three quotations at a minimum are required for purchases of goods and services with a total cost of $5,000 or more, but less than $15,000. Purchases made at auction, state contract, or buy board do not require quotations. Unbudgeted purchase of capital items must be authorized through a budget amendment by the Commissioners Court.

**Purchases of $15,000 or more, but less than $100,000 –**

All purchases over $15,000 require a minimum of three written quotes. Purchases made at auction, state contract, or buy board do not require quotations. Unbudgeted purchase of capital items must be authorized through a budget amendment by the Commissioners Court.

## CREDIT CARD PURCHASES

The County Auditor shall establish policies and procedures for credit card purchases.

## PURCHASES AFTER DECEMBER 1ST OF THE CURRENT FISCAL YEAR

Elected officials and department heads should begin reviewing their end of year requirements early with regards to any capital equipment purchases (normally taking 6-8 weeks to complete).

Only requisitions for capital equipment emergency purchases will be processed after December 1st of the current fiscal year.

For purchases other than capital equipment, please remember to allow adequate time to complete the purchasing process and for the vendors to be able to **deliver the goods or complete the service** no later than December 31st of the current fiscal year.

## CHANGE ORDERS

Change orders will be processed in the same manner as the standard purchase order.

## EXEMPTIONS FROM THE REQUISITION / PURCHASE ORDER PROCESS

- Utilities, building rental, insurance premiums, professional services.
- Professional services rendered for unforeseeable expenses such as autopsy fees, court appointed attorney fees, doctors, and pre-employment procedures.
- Foster parents
- Routine duty travel
- Appropriations to other governments, or non-profit organizations approved by the Commissioners Court during the budget process.
- Training and seminars
- Quantum meruit
- Health insurance and risk management claims
- Purchases not required by statute to be processed by the Purchasing Agent
- Monthly bills for items purchased under contract, such as rental agreements.
- Emergency purchases made in (1) a case of public calamity where the prompt purchase of items are required to provide for the needs of the public or to preserve the property of the County; (2) a case where the item is necessary to preserve or protect the public health or safety of residents of the County; and (3) a case where the purchase of an item is made necessary due to unforeseen damage to public property.

# COMPETITIVE BIDDING PROCESS

## I. COMPETITIVE BIDDING

A. Purchases of more than $100,000 from one vendor must be made through formal, written, sealed, competitive bids unless exempt by state statute. Departments are prohibited from making "split purchases" in an effort to circumvent the formal bid requirement.

B. Commissioners Court must approve advertisement for bids.

C. The user department shall be responsible for establishing specifications and providing a complete written set of the specifications along with a completed requisition. Specifications may be written on a technical or functional basis. The use of brand names in the specifications is discouraged but may be used for comparison purposes only. When brand names must be used it will be stated "or approved equal". When developing specifications, one should ensure that a fair competitive environment exists. The Auditor's Office will finalize the specifications to ensure they are proper for inserting in the bid packet and will submit them to the user department for final approval. The procedure is jointly undertaken in order to establish a quality level of goods or services being procured.

D. Once bid specifications are approved by the user department, the advertisement and bid process begins. The Auditor's Office will coordinate and operate the bidding system. Likewise, the Auditor's Office will be responsible for adherence to any and all legal requirements of competitive bidding and will develop standard terms and conditions that will be used for all of the County's formal bidding situations.

E. In addition to soliciting vendors through newspaper advertisements, county personnel will work to identify possible vendors with interest in submitting a bid to Anderson County. Pre-bid conferences may be used when it is anticipated that they will be useful in answering vendors' questions and to ensure that the same information is distributed equally. It is of utmost importance that those who intend to bid understand the County's needs. All material changes to bidding conditions or specifications (resulting from pre-bid conferences, vendor inquiries, and all other reasons) will be documented and issued in an addendum by the Auditor's Office to all known bidders (i.e., all vendors who have requested a bid packet). All questions from vendors concerning the bid packet are to be addressed to the Auditor's Office.

F. It will be the Auditor's Office responsibility to receive all bid proposals and to document such receipt on the date and time as advertised. It will be the Auditor's Office responsibility to coordinate with the user department a time to evaluate the bids. The County will follow

the practice of using a total cost bid analysis for evaluating the lowest responsible bid unless the bids specifications dictate otherwise. Once an evaluation has been prepared, the Auditor's Office and user department head will make a joint recommendation to the Commissioners Court for consideration and award.

## II. REQUEST FOR PROPOSALS

A. The request for proposals (RFP) is a process similar to the sealed bid procedure used for the procurement of goods and services that are highly specialized and technical in nature. Important distinctions between a normal sealed bid and an RFP include:

1. Normal bids stipulate the award of the contract to the "lowest and most responsible bidder". An RFP permits price and other factors to be considered, allowing a contract to be awarded to a vendor other than the one offering the lowest price.

2. Normal bids utilize detailed specifications about the nature of the goods and services required by the County. An RFP may specify only the function to be served by the goods and services, leaving the vendors to determine how to best achieve the desired function.

3. State law requires that the RFP specify the relative importance of price and other evaluation factors. The user department and/or the Auditor's Office may conduct discussions with vendors after the submission proposal. The final terms of the contract may be negotiated during these discussions and prior to the award of the contract by the Commissioners Court.

## III. PROFESSIONAL SERVICES

A. GENERAL

1. These services are characterized by their reliance on mental or intellectual skills, often accompanied by formal certification or licensing by a state or other regulatory agency. Examples of professional services include accounting, auditing, architecture, economics, engineering, financial advisory services, law, laboratory services, consulting, medicine, and surveying, etc.

2. State law exempts the procurement of these services from competitive bidding requirements (Professional Service Acts, VCTS). Professional service consultants should be selected on the basis of demonstrated competence and qualifications.

3. Any negotiated contract and fee structure document should be turned over to County legal counsel for review. Once approved by legal counsel, the contract should be placed on the agenda of the Commissioners Court for approval, acceptance and signing.

The Auditor's Office will prepare a draft RFP to be reviewed and approved by the user department. Once approved, the Auditor's Office will submit to Commissioners Court for approval of advertisement. The Auditor's Office will then place advertisements in the newspaper(s) and distribute RFPs to potential consultants. Proposals will either be evaluated by the user department and the Auditor's Office, or a committee (that will include the user department and the Auditor's Office) established by Commissioners Court. A recommendation is made, and a fee is negotiated. Once negotiations are completed, the County legal department will draft a contract based on the RFP and the consultant's proposal. The final agreement will be brought back to the Commissioners Court for review and approval.

# EXEMPTIONS FROM THE COMPETITIVE BID PROCESS

Local Government Code, Section 262.024 allows the purchase of any of the following items as exempt from the requirements established by this policy if the Commissioners Court by order grants the exemption:

A. An item to be purchased in case of public calamity if prompt purchase is necessary to relieve the necessity of the citizens or to preserve the property of the County. This exemption may only be requested by a member of the Commissioners Court or the County Sheriff.
B. An item necessary to preserve or protect the public health and safety of the residents of the County.
C. An item necessary because of unforeseen damage to public property.
D. Any work performed and paid for by the day, as the work progresses.
E. Any land or right-of-way.
F. An item than can be obtained from only one source, to include:
    1. Items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies.
    2. Films, manuscripts, books.
    3. Electric power, gas, water, and other utility services.
    4. Captive replacement parts or components for equipment.
G. An item of food.
H. Personal property sold:
    1. At an auction with the use of a state licensed auctioneer.
    2. At a going out of business sale held in compliance with Subchapter F, Chapter 17 of the Business & Commerce Code.
    3. By a political subdivision of the state or the federal government.
I. Any work performed under a contract for community and economic development made by the County under LGC 381.004.
J. Renewal or extension of a lease or of equipment maintenance agreements are exempt from the requirements as set out in this policy if the Commissioners Court so orders and grants the exemptions, and if:
    1. The lease and/or maintenance agreement has gone through the competitive bidding procedure within the preceding year.

2. The renewal and/or extension does not exceed one year.
3. The renewal and/or extension is the first such renewal and/or extension.

If an item is deemed to be a sole source purchase, the ordering department will need to verify, in writing, the reasons why to the Auditor's Office. (A letter from the vendor may be requested.) If the requesting department and the Auditor's Office both agree that the vendor is sole source, the request will be submitted to the Commissioners Court for approval prior to issuance of the purchase order.

# INVOICES

The invoice is an itemized statement of merchandise shipped or delivered to an end user and is a guide for the County in settling financial obligations incurred. Invoices are based upon purchase orders and therefore should contain the same information. Any difference between the invoice and the packing slip/invoice should be resolved with the vendor immediately and always before forwarding for payment.

All invoices should be mailed or delivered by the vendor directly to the Auditor's Office at the address listed below:

Anderson County Auditor's Office
Attn: Accounts Payable
703 N. Mallard St., Suite 110
Palestine, TX 75801

All invoices should contain the following information:

1. The purchase order number
2. An itemized list of merchandise received/shipped
3. The prices, terms, quantities, and other pertinent information

Upon receipt of each invoice, staff members of the Auditor's Office will attach a copy of the purchase order, audit the invoice for accuracy and County personnel signature approval, enter the invoice into the accounts payable system and present the invoice to the Commissioners Court for approval.

Invoices found to contain errors will not be submitted for payment until all errors have been reconciled and agreed upon by both the County and the vendor.

Texas' "prompt payment law" establishes when some types of payments are due. The law states that payments for goods and services are due within 30 days after the goods are provided, the services completed, or a correct invoice is received, whichever is later.

# PROPERTY SALVAGE AND DISPOSAL

## SALVAGE

Equipment no longer needed by a department shall be reported to the Auditor's Office by completing a Property Acquisition, Transfer and Disposition form. If it is found that this item is of no further use by any County department, the Auditor's Office will dispose of it in accordance with LGC 263, Subchapter D – DISPOSITION OF SALVAGE OR SURPLUS PROPERTY.

## DISPOSAL

Upon approval by Commissioners Court, surplus or salvage material and equipment may be disposed of in one of the following methods:

A. Public auction
B. Trade-in on new equipment
C. Seal competitive bids
D. Ordered destroyed or distributed as unsalvageable

# ANNUAL INVENTORY

A physical inventory of all Anderson County property shall be completed annually. Upon completion of the physical inventory, a copy of the inventory report shall be completed. The report should include a listing of all county property notated as 'located' or 'not located'; the condition of the property and all physical attributes, i.e., serial number, make/model, etc. A Missing Items report shall be submitted to each department head where items were found to be missing. The Anderson County Commissioners Court will determine the necessary action to be taken on property found to be missing.

# GLOSSARY TERMS

**Authorized Signature –** A signature that has been approved by the department head to initiate a purchase request and which is recognized by the County Auditor to authorize the expenditure of funds from the department's budgeted funds.

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

**Bid Bond –** A bond required of a contractor that ensures that the contractor will enter into the contract for which he has submitted a formal written bid and/or proposal.

**Buyer –** County Auditor or his/her designee functioning under the direction of the Court.

**Capital Items –** A capital item is generally an item that has a unit cost in excess of $2,500 and has a life expectancy of greater than one (1) year. Certain items with a unit cost of less than $2,500 are designated as reportable for the purpose of equipment accountability, e.g., computers and computer equipment, chainsaws, electric or air powered tools, etc.

**Competitive Bidding –** The process wherein a vendor openly competes with other vendors through a formal process for the County's business.

**Contract –** A formal, written agreement executed by the County and a vendor containing the essential terms and conditions under which goods or services are to be furnished to the County. A contract becomes a commitment of the County's funds when approved by the Commissioners Court and properly signed and dated by the County Judge.

**Encumbrance –** The process wherein the County sets aside funds for the purchase of supplies, goods, services, or equipment in accordance with the approved purchase order.

**F.O.B. Destination Point –** A designation that indicates transportation charges are paid by the vendor, and the vendor is responsible for the merchandise until it reaches the County's designated delivery point.

**F.O.B. Shipping Point –** A designation that indicates shipping charges are added to the invoice and paid for by the County. The County takes possession of the goods at the point of shipment and is responsible for them from that point.

**Fund Approval –** The process wherein the County Auditor verifies that moneys are available at the specific budgetary fund level to encumber the expenditure within the approved budget, as well as available to make the payment for the goods and services when delivered.

**Goods –** A generic term that includes all types of property to be purchased by the County, equipment, supplies, materials, component and repair parts.

**Invitation to Bid –** A formal written document that requests from the bidders a firm price and delivery details for specified merchandise listed on a purchase requisition. An Invitation

to Bid is always required when the anticipated level of expenditure will be greater than $100,000. It may be used anytime the Auditor's Office and/or Commissioners Court deem it is justified.

**Lease –** A specific contract for the use of real estate or personal property for a specified period of time with a specified rent or other compensation to be paid.

**Lowest Responsible Bid –** The lowest bid or offer received by the County. It meets all the specifications, requirements, terms, and conditions of the Invitation to Bid. It is expressly understood that the lowest responsible bid includes any related costs to the County, using a total cost concept. The term "responsible" refers to the financial and practical ability of the bidder to perform the contract. The term is also used to refer to the experience record of the vendor with the County or the vendor's safety record.

**Performance Bond –** A bond that is normally required of all contractors doing business with the County, which guarantees vendor performance during the execution of the contract.

**Purchasing –** The act, function, and responsibility for the acquisition of goods and services.

**Purchasing Law –** The law that governs county purchasing including the following laws: Purchasing Act, (TEX LOC. GOV'T CODE ANN. §262, subch. C), Public Property Finance Act, (TEX LOC. GOV'T CODE ANN. §271, subch. B), State Contract (TEX LOC. GOV'T CODE ANN. §262.002, §271.0813), State Catalog, (TEX LOC. GOV'T CODE ANN. §2157 in coordination with TEX LOC. GOV'T CODE ANN. §271.101-103), Services and Products of Severely Disabled, (TEX LOC. GOV'T CODE ANN. Chapter 122), Interlocal Cooperation Agreement, (TEX LOC. GOV'T CODE ANN. §791), Prompt Payment Act, (TEX LOC. GOV'T CODE ANN. §2251), Bidders from other States and 5% Retainage, (TEX LOC. GOV'T CODE ANN. §2252), Public Works Performance and Payment Bonds, (TEX LOC. GOV'T CODE ANN. §2253), Professional Servies Procurement Act, (TEX LOC. GOV'T CODE ANN. §2254, subch. A), Wage and Rate Construction Projects, (TEX LOC. GOV'T CODE ANN. §2258), Sales Tax Exemption for Governmental Entities, (TEX LOC. GOV'T CODE ANN. §151.309), Workers' Compensation Compliance, (Workers Compensation Rule §110.110), Uniform Electronic Transaction Act, (TEX. BUS. & COM. CODE ANN. Chapter 43)

**Purchase Order –** A formal, binding legal agreement issued by the County Auditor's Office. A purchase order is requested by a departmental requisition that details the merchandise or services required. A purchase order grants the vendor the authority to deliver an invoice for goods and services. It is the County's commitment to accept the goods and services and pay for them at the agreed price.

**Request for Proposal –** A formal written document requesting that potential vendors make an offer for services to the County. The offer allows for negotiations after proposals have

been received, but before a contract is awarded. This process is normally used for the acquisition of insurance coverage and high technology items.

**Requisition –** The source document for all purchasing activity. The requisition is for communicating internal requirements and should not be used by the departments for the order and delivery of goods and/or services.

**Services –** A generic term to include all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, or professional services.

**Specifications –** This statement contains a detailed description of the terms of the contract, as well as an enumeration of particulars, required details, and all other restrictions for goods and/or services. The enumeration of the specifications should be descriptive, but not restrictive.

**Surplus Property –** An item no longer required by a department, regardless of its value or condition.

**Vendor –** A generic term applied to individuals and companies alike who provide goods and service to Anderson County.