

# Bastrop County Purchasing Manual



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## Introduction

This manual contains the authorized procedures for purchasing by County elected officials and department heads and employees. The Bastrop County Commissioners' Court approves these procedures, and only the 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 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 Bastrop County elected officials and department heads and is designed to assist them in complying with the laws governing county purchasing procedures.

## I. Statement of General Policy

It is the policy of Bastrop County that all purchasing shall be conducted strictly on the basis of economic and business merit. This policy is intended to protect the interest of the taxpaying citizens of Bastrop County.

It is important to remember that county purchasing operates in full view of the public. In order to assure 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 for the County.

Bastrop 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 department head and official, but also every supervisor and employee of Bastrop County. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The responsibility of purchasing ultimately rests with the Commissioners' Court. The Purchaser, as an agent of the Commissioners' Court, aids in the purchasing process but is subject to the Court's direction as to specifications and on items to be contracted or purchased.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. In order to accomplish timely purchasing of products and services at the least cost to Bastrop 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.

## II. Purchasing Authority and General Guidelines

The Purchasing Department is responsible for making purchases of supplies, materials, equipment, services and 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 and signed by the County Judge. Such purchases made on competitive bids shall be supervised by the Purchaser in accordance with the purchasing Statutes. (Code, Chapter 262.011(e)). Based on circumstances, 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:

- A. Determine whether the county is required to make the purchase by competitive bidding. 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 V. Questions regarding the necessity of competitive bidding should be answered by the Purchasing Department.
- B. Other Purchases - Special procedures are available for and applicable to the purchase of particular goods and services, summarized as follows:
  1. Unbudgeted Capital Expenditures - purchases not authorized in a Department's budget and must be authorized through a budget amendment presented by the Auditor's Office to the Commissioners' Court. (See Section VI, A)
  2. 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 VI, B)
  3. High Technology - as an alternative to competitive bidding, in the case of high technology items. Competitive proposals from vendors may be solicited by the county when, in the judgment of the Commissioners' Court, this procedure is preferable. (See Section VI, C)
  4. Professional and Personal Services - Professional and Personal Services are exempted from competitive bidding, in which case they may be obtained through Requests for Proposals as described in Section VI, D.
  5. 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 a county residents, or (3) the purchase is required due to unforeseen damage to public property. (See Section VI, E)
  6. Work in Progress - this may be exempted by the Commissioners' Court and paid for, as it is performed.
  7. Land and Right-of Way Acquisition - this may be exempted by the Commissioners' Court from competitive bidding.
  8. Sole Source Items - an item available from only one source may be purchased without competitive bidding, with a sole source resolution upon the approval of the Commissioners' Court, as provided in Section VI, F.

9. Cooperative Purchasing Groups – Commissioners Court may approve the purchase of goods or services by adopting an inter-local agreement with a cooperative purchasing group such as TASB Buy Board and H-GAC or by inter-local agreement with another public entity.
10. Current procedure adopted by Commissioner's Court states that Purchase Orders should be obtained for purchases over \$ 500.00 except that the purchases for contracted goods or services can be covered with a blanket purchase order written by the purchasing department.

### III. Requisitions

#### A. Necessity of Requisition

A requisition is should be presented for all purchases (Art. 1661, V.T.C.S.). The purpose is twofold: (1) to inform the Purchasing Department of the needs of the requesting department; and (2) to identify correctly and clearly the material requested and the codes from which the funds will come. Requisitions should include the vendor(s) or be prepared well in advance to enable the Purchasing Department to find a vendor. In the case that it is not feasible to present a requisition a signed, dated and coded quote may be presented as stated in the following paragraphs.

#### B. Preparation of Requisition

Use a separate requisition for each class of items. Requisition forms are available from the Purchasing Office through e-mail. A requisition may be delivered by e-mail, fax, inter-office mail or hand delivered to the Purchasing Department. The Elected Official or department head must submit a list of employees who are authorized to complete requisitions. The Purchasing Department will maintain a list of authorized personnel with the authority to make purchases. The exception to the requisition process is when a bid is approved by the court; items under that bid can be purchased directly by the employee. For instance the office supplies contract has been approved by the court and there is an assigned employee in each department who can purchase on line or by fax. The same goes for purchases of road materials or other items for which bids have been approved by the court. The Purchasing Office is always available to answer questions regarding requisitions.

A requisition must contain the following information for proper processing (See Exhibit A to this Manual).

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 acquired is under an existing bid contract, or through a cooperative purchasing group, the vendor awarded the contract must be identified. (b) If the item is not under contract, please designate the vendor: a recommendation of vendors that you have worked with is appreciated or refer to the Purchasing Department for vendors whose products have been used previously and found to be satisfactory.
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. **Description 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 or *attach a quote from the vendor.*
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 on a quote from the vendor.
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.

7. **Certification.** The Department Head or authorized person must sign and forward this requisition to the Purchasing Department.

#### C. Office Supply Orders

Office supplies are purchased via the Internet from the current contract. Contact the Purchasing Department for a Password and User ID for authorized users. Instruction on how to purchase via the Internet will be given to authorized personnel in each department.

Authorized personnel will place orders for office supplies. The Purchasing Department, can at any time review orders. Delivery will be made to the User Department. Copies of the packing slips are requested by the Treasurer's Office.



#### IV. Purchase of Materials and Supplies

Materials and supplies not available from the current office supply contract or on contract to the County by means of bid or proposal should be purchased through the Purchasing Department. Also the opening of all credit accounts should be done by the Purchasing Department.

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

##### A. The Purchasing Department's responsibilities are to:

1. Obtain information about the needs of the departments of the County;
2. Secure the product at the least cost to the County;
3. Know the sources for and availability of needed products; and
4. Aid and to cooperate with all departments of the County to meet their equipment and supply needs.

##### B. Requesting Departments' responsibilities are to:

1. Make requests early enough to allow sufficient time for the vendor to make delivery;
2. Supply detailed specifications of item requested;
3. Inform the Purchasing Department of all unusual demands;
4. Take no actions that might be viewed as obligating or committing the County, except in an emergency; and
5. Make no commitments regarding commodities or services in the name of the County. Such commitments will be VOID unless they are made by the Purchaser, 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 the capital expenditure is budgeted and the item is \$50,000 or more it must be competitively bid.
  - c. If a budgeted capital expenditure of less than \$50,000.00 the item may be acquired through Purchasing as described in another area of the policy.
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 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.

## V. Bidding Process and Procedures

### A. Bid Procedures for Budgeted Item - Purchase over \$50,000

#### Requesting Department's Responsibilities:

1. Submit a requisition to the Purchasing Department far enough in advance of the desired purchase date to allow time for the formal bidding process;
2. Be present at the meeting of the Commissioners' Court during which the authorization for Purchaser to proceed with the process.

#### Purchasing Department's Responsibilities

1. Review bid specifications to determine adequacy in light of general requirements and to insure that they are not unduly restrictive.
2. Prepare terms and conditions to attach to bid specifications.
3. Prepare agenda request and notify the Department of agenda date.
4. Following approval by Commissioners' Court, mail bid specifications to vendors.

### B. General Bidding Information

The Purchaser 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 should be estimated in the request based on the best available information. The successful bidder's compensation, however, will be based on the actual quantities supplied, furnished or constructed.

### C. Bid Opening

Following receipt of bids by Purchasing Department, bids will be publicly opened by the Purchaser or his/her designee. All sealed bids will be opened on the assigned day at the designated time. Bids will be read aloud and recorded on a bid tabulation sheet. The Purchasing Department will furnish copies of the bids to requesting department. Requesting department may be present at the public bid opening.

### D. Bid Recommendations

After examining copies of all the bids, the requesting Department and the Purchaser will decide on a recommendation for bid award in time prior to the deadline for Commissioners' Court agenda. The Purchaser will verify recommendation to the lowest and best bid received.

After decision of recommendations the Purchaser will obtain an agenda setting, notify the Department and forward the bid recommendation; along with a bid summary, to the Commissioners' Court.

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

### E. 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; and
3. The ability, experience, efficiency integrity, and financial responsibility of the bidder.

When the county receives only one bid, the bid may be accepted if the Commissioners' Court determines the price is fair and reasonable. If the price is not fair and reasonable, the bid may be rejected. If the bid(s) is rejected the Court may instruct the purchaser to post for a re-bid.

If two or more responsible bidders submit identical bids, the bid award will be made by drawing lots or as directed by the County Judge.

#### E. Bid Bonds

A vendor awarded a contract may be required to post bond. If it is required, the Purchaser will include the requirement in the bid advertisement. A bid bond is required for all contracts in excess of \$100,000 (LGC 262.032). The bid bond amount that will be required shall not be less than 5% of the total contract price and must be executed with a surety authorized to do business in the state of Texas.

#### G. Performance Bonds

Within 30 days after the acceptance of a bid or proposal and the signing of a contract or issuance of a purchase order, but before work has begun, the selected vendor shall furnish a performance bond if required by the county. The performance bond shall be for the full amount of the contract if the contract exceeds \$ 50,000. If the contract does not exceed \$50,000 the county may provide in the bid or proposal request that no funds will be paid to the contractor until completion and acceptance of the project.

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

Following award of the bid contract by the Commissioners' Court the successful Vendor will be notified by Purchasing Department.

#### I. Change Order

A change order may be required when it becomes necessary to make changes after performance of the contract has commenced. The Commissioner's Court or their designee is authorized to approve increase or decreases to the original contract price of \$50,000 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 \$50,000 must be approved by the Commissioners' Court. All decreases of 18% or more of the original contract price must have the written consent of the contractor. Any major alterations of the plans or specifications must be submitted to the Commissioners' Court for approval.

## VI. Special Purchases

### A. Unbudgeted Capital Purchases

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 Department 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 Department to investigate obtaining a Blanket Purchase Order for such items. Blanket Purchase Orders anticipated to exceed \$50,000 during the course of a year must be competitively bid, as described in Section V. Blanket Purchase Orders should not exceed budgeted funds for such purchases by the Department.

#### 2. Procedure for Acquisition under Blanket Purchase Order

Procedures to acquire items under these contracts are as follows.

- a. The department will pick-up or receive items during the course of an agreed on time period.
- b. The department will retain receipts and/or delivery tickets for all items picked up or delivered during the month.
- c. At the end of each month, the department will attach receipts/delivery tickets to the department's copy of the invoice and shall be delivered to the Treasurer for payment.

### C. Insurance and High Technology Items

1. All high technology items will be obtained through a proposal process or through purchasing cooperative group. All proposed purchases of IT equipment must be approved by the IT Department. All proposed communication purchases must be approved by the IT and/or the Office of Emergency Management.

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

- a. data processing equipment and software and firmware used in conjunction with data processing equipment;

- b. telecommunications, radio and microwave systems;
- c. electronically distributed control systems, including building energy management systems; and
- d. Technical services related to the above items.

## 2. DIR Catalogue Purchasing Program

- a. The requesting department must clearly and accurately describe the goods/services to be purchased to county IT department;
- b. High Technology items may be purchased through the DIR system; and
- c. IT equipment exceeding \$50,000., at least 3 DIR catalogue vendors should be requested to provide a bid.

## 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, and registered engineers. 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.

### 2. Definition of Personal Services

Personal Services contracted to be performed by a specific person.

### 3. Procedure

Solicitation of Proposals - After approval by the IT department and the Commissioner's Court purchasing will send the RFP to potential professional service providers. Purchaser will order advertisement of the request. The service providers will submit proposals to the Purchasing Department. The Purchasing Department shall open proposals on the date specified in the request for proposals. Confidential and trade secret information, identified as such in the proposal, shall not be publicly disclosed, but the remainder of the proposal shall be open for public inspection following award of the contract.

### 4. Evaluation of the Proposals

The Purchasing Department and submitting department along with a selection team may conduct further discussions and negotiations with responsible providers after the opening. All providers receive fair and equitable treatment with regard to such discussions and negotiations. The evaluation of each service provider will cover at least the following: The following items may be considered when choosing a successful provider. The items will be included and waited in the request (RFP)- organization and personnel, and price and price break down or price range and cost schedule.

#### a. Recommendation

After 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.

## E. Emergency Purchases

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 hour's 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 designee that the emergency exists. The next working day the Department should contact Purchasing to present a requisition requesting a purchase order.
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 Auditor must be obtained by purchasing prior to acquiring the item using the phone in purchase order procedure; or (c) if the purchase is in excess of \$50,000, purchasing must obtain approval of the 3 members of the Court for the purchase and then utilize phone in purchase order procedures.

#### 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 the Purchaser, in writing, certifies the existence of only one source to the Commissioners' Court and the Court enters a finding by means of a resolution of such in its minutes.

#### G. Equipment Maintenance

Maintenance service on County owned equipment is arranged through the User Department. The Department requiring maintenance may contact purchasing for a blanket purchase order.

#### H. Impracticality of Preparing Detailed Specifications

If the purchaser determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, the purchaser 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 the purchaser to follow purchasing procedures as prescribed in "Alternative Multistep Competitive Proposal", Section 262.0295 of the Local Government Code.

## VII. Inspecting, Testing, and Receiving

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 the Purchasing Department of the reasons why the merchandise is not acceptable. The Purchasing Department will then requires a replacement, cancel the order, or take other appropriate action to obtain correct merchandise.

## VIII. 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

New property with a value over \$500.00 will be tagged by the Treasurer's Office with a Bastrop County property tag with a sequential number. The Treasurer's Office will present a copy of the tag made on a copy of the invoice to the Purchasing Department. Purchasing will enter the information on the property, fixed asset software, including the tag number for inventory purposes.

### 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 should track such items and shall establish internal procedures.

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 Property (LGC 262.011(j))

The purchaser is authorized by Commissioners Court to transfer supplies, materials and equipment among the various county departments. The transfer or trade of any equipment (not limited to capital items) from one department to another must be handled through purchasing. In the event an item is no longer required, the department shall notify the purchasing department by submitting the transfer/add/delete (TAD) form. The Purchasing Department will direct appropriate action to be taken.

The Purchasing Department and other departments are encouraged to make inquiries as to unused or unneeded equipment in the possession of other departments, but the decision as to whether the property is unneeded ultimately rests with the Commissioners Court.

### E. Missing Property

Lost or stolen property must be reported immediately. The Elected Official or Department Head must make reports of loss or theft in writing to the purchaser. Reports of theft must have attached a copy of the theft report compiled by the proper law enforcement agency. If an item cannot be located, purchasing will verify all proper documentation has been



submitted by the respective department and, with the approval of Commissioners' Court and the Auditor, remove the item from the financial accounting system.

F. Disposal of Surplus or Salvage Property (LGC 263, Subchapter D)

The purchaser 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 the purchaser as provided in Section 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 at a public sale or auction. No Purchasing Department employee or his or her immediate family may bid on property sold through a Sealed Bid Sale. Purchasing Department employees may not knowingly purchase or receive merchandise through a third party through a Sealed Bid Sale. Bastrop County may sell surplus or salvage property to another county or a political subdivision within the county, or offer the property as a trade-in for new property of the same general type. 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. A county may contract with a licensed auctioneer who uses an internet auction site offering on-line bidding to sell surplus or salvage county property. If the property has a value of \$500.00 or more the auction must be published in a paper of general delivery throughout the county. The County has the right to reject any offer to purchase if it is in the best interest of the county.

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 purchasing for an equipment inventory list far enough in advance to insure that an inventory audit can be taken by the Auditor's office before the termination date. The Auditor's office will provide to the Commissioners Court a full report, noting any discrepancies between property actually located and property listed on the inventory. The County Official or Department Head will be personally accountable to the court for all missing items.

H. Annual Inventory

Each year, the Purchaser shall file an inventory of all property of the county with the County Auditor and the Commissioner Court based on the information submitted by the Elected Officials and Department Heads for the purpose of financial accounting and inventory control.

## IX. Legal Basis for Purchasing

### A. Govt. Code Chapter 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. Purchasing may be requested by the court to post a request for qualifications for professional services.

### B. Code Chapter 271, Subch. D - Purchase under State Contract

The State Purchasing Local Government and other Purchasing Cooperatives to which Bastrop County belongs 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 and other authorized purchasing cooperatives satisfies all competitive bidding laws. (Formerly article 664-7).

### C. Code Chapter 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: Ownership of ten per cent (10%) or more of voting stock or shares of the business entity, or ownership of \$2,500 or more of the fair market value of the business entity; or

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 second 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 should 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 (CLASS A misdemeanor).

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. (Formerly article 988b)

#### D. Code Chapter 262, Subch. 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. Code Chapter 262, Subch. B - County Purchaser

A board composed of the judges of the district courts in a county and the county judge, by majority vote, may appoint a suitable person to act as the county purchaser. 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. Code Chapter 263, Subch. 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. (Formerly Act. 664-7)

#### G. Code Chapter 262, Sub.ch. C - County Purchasing Act (Competitive Bidding)

The legislative scheme contained in the newly codified Local Government Code continues the substance of (no repealed) Article 2368a-5, and became effective September 1, 1987. It is a comprehensive county purchasing statute. The statute includes:

1. Competitive bidding requirements, procedures and exemptions;
2. An alternative competitive request scheme and proposal procedure for high technology items (see section 262.030); and
3. Bond requirements for bidders.

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 section 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. 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. 262.034(a). Intentional or knowing violation of the subchapter is a CLASS C misdemeanor.

# **APPENDIX A FORMS**

\_\_\_\_\_  
Date of Order

P.O. #  
To Be Entered by Purchasing

**PURCHASE REQUISITION**

Bastrop County Purchasing  
Bastrop, Texas 78602

Issued to - Name of Seller: \_\_\_\_\_

Ship To: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<u>QUANTITY</u>	<u>DESCRIPTION AND SPECIFICATIONS</u>	<u>PRICE</u>	<u>AMOUNT</u>

Budget line item - - .  
Fund/Department/Object code

This order has been placed by \_\_\_\_\_

Title \_\_\_\_\_

<u>NAME OF VENDOR</u>	<u>PRICES QUOTED BY BIDDER</u>			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>

Vendor recommended by department \_\_\_\_\_

**OR**

To the best of my knowledge, there is only one supplier of this item \_\_\_\_\_  
Signature

I hereby submit that the supplies or services requested are necessary to properly conduct the activities of this department and have been provided for in my current budget.

\_\_\_\_\_  
Signature of Official or designated person

\_\_\_\_\_  
Title

*If written quotes obtained, please attach copies.*

Date of Order \_\_\_\_\_

P.O. # \_\_\_\_\_  
To Be Entered by Purchasing

**EMERGENCY  
PURCHASE REQUISITION  
Bastrop County Purchasing  
Bastrop, Texas 78602**

In response to major emergencies and disasters, the County Judge may issue a disaster declaration pursuant to Chapter 418 of the Government Code and the Executive Order of the Governor Relating to Emergency Management and invoke certain emergency powers to protect the public health and safety and preserve property. Also please check the chapter titled Emergency Purchases in the Bastrop County Purchasing Manual, and if at all possible, complete this form for emergency purchases.

Issued to - Name of Seller: \_\_\_\_\_ Ship To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUANTITY	DESCRIPTION AND SPECIFICATIONS	PRICE	AMOUNT

Budget line item \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Fund/Department/Object code

This order has been placed by \_\_\_\_\_  
Title: \_\_\_\_\_

I hereby submit that the articles or services requested are necessary to conduct properly the EMERGENCY NEEDS of this department.

\_\_\_\_\_  
Signature of Official or designated person Title

INTER-OFFICE MEMO  
TAD FORM

TO: PURCHASING

FROM: \_\_\_\_\_

SUBJECT: COUNTY PROPERTY

PLEASE USE THIS FORM WHEN TRANSFERRING, ADDING OR DELETING  
PROPERTY TO COUNTY INVENTORY OR INSURANCE. ALSO, PLEASE STATE  
THE REASON FOR DELETIONS.

**TRANSFER** THE FOLLOWING PROPERTY-TAG # \_\_\_\_\_.  
FROM \_\_\_\_\_ TO \_\_\_\_\_.  
DEPARTMENT DEPARTMENT

FOR THE FOLLOWING REASON

\_\_\_\_\_

\_\_\_\_\_

**ADD** \_\_\_\_\_ TO THE COUNTY INSURANCE & INVENTORY  
(ATTACH A COPY OF THE INVOICE)

**DELETE** TAG# \_\_\_\_\_ FROM THE COUNTY  
INSURANCE/INVENTORY

FOR THE FOLLOWING REASON

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE (SENDING DEPARTMENT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE (RECEIVING DEPARTMENT)

\_\_\_\_\_  
DATE