

# City of Robinson



## Purchasing Policies & Procedures

## **POLICY STATEMENT**

The City of Robinson will competently acquire goods and services that are necessary to provide its citizens with the services of a municipal government. The City Purchasing program has several goals, among these are:

- To purchase the proper good or service to suit the City's needs.
- To get the best value for the good or service.
- To have the good or service available where and when it is needed.
- To assure a continuing supply of needed goods or services.
- To guard against any misappropriation of the assets procured.
- To ensure that all purchases are made in accordance with the current fiscal year budget.

In addition, the City purchasing program will endeavor to assure that:

- Responsible bidders are given fair opportunity to compete for the City's business.
- Public funds are safeguarded.
- Public spending is not used to enrich elected officials or City employees, or to provide preferential treatment or special benefits to favored constituents.

The purchasing program for the City of Robinson is decentralized with centralized oversight provided by the Finance Department.

The purchasing policy is applicable to all funds not specifically exempted by law. Any goods or services funded through special monies such as donations, insurance reimbursements, seized property sale, and/or recreation or enterprise programs must comply with procedures established in this document.

Purchases of goods or services funded through state or federal grant monies must comply with procedures established in this document in addition to any and all procurement standards promulgated by the respective agencies.

**It is the policy of the City to purchase through a competitive process when required by law and/or the policies outlined in this document for items or services. This includes the purchase and lease of goods, the purchase of services, and construction projects. These competitive principles apply to all City Departments. It is the policy of the City to publish specifications that will ensure competitive bids whenever practical and required by law. Because competition is so critical to public purchasing, it is essential that specifications be developed so a number of competitive bids/proposals will be received.**

## **GENERAL ETHICAL STANDARDS**

1. It will be a breach of ethics to attempt to realize a personal gain through public employment with the City by any conduct inconsistent with the proper discharge of the employee's duties.
2. It will be a breach of ethics to attempt to influence any public employee of the City to breach the standards of ethical conduct set forth in this code.

3. Any member of the Council, officer or employee of the City who has a substantial Financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract contractor supplying the City shall make known that interest to the Council and shall refrain from voting upon or otherwise participating in his capacity as a council person, officer or employee in the making of such sale or in the awarding or performance of such contract. In addition, officials are required to comply with the requirements of Chapter 171 of the Local Government Code. Vendors must comply with the requirements of Chapter 176 of the Local Government Code. Violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the Council.
4. It will be a breach of ethics to offer, give or agree to give any employee or former employee of the City of Robinson, or for any employee of the City of Robinson 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, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification, or procurement standard, rendering of advice, investigation, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract, subcontract, or any solicitation or proposal pending before this government.
5. It will 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 the City of Robinson, or any person associated therewith, as an inducement for the award of a subcontract or order.
6. The prohibitions against gratuities and kickbacks prescribed above will be conspicuously set forth in every contract and solicitation.
7. It will be a breach of ethics for any employee or former employee of the City of Robinson knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

***Any official or employee who exercises discretion in the planning, recommending, selecting, or contracting of a vendor is required to disclose certain relationships with City of Robinson vendors, or an employee or agent of the vendor, in accordance with Chapter 176 of the Local Government Code.***

**Purchases up to \$500**– Purchases up to \$500 do not require a Purchase Order. The customer Department may proceed with the purchase on receipt of the Department Head approval. The following steps are required of the buyer:

- Obtain informal quotes, use price agreements established by contract or conduct price comparisons on standard products regularly purchased through internet review.
- Make the purchase. Invoices are to be directed to user Department for approval and coding before being sent to Accounts Payable for payment.

**Purchases of \$500 – \$3,000** – Purchases in the amount of \$500 through \$3,000 require a Purchase Order and review by the Finance Director prior to approval.

For purchases that have not been previously bid and contracted, a competitive process is required. User Departments must secure three (3) or more informal bids, maintain a record of them and award the bid to lowest responsible bidder or the bidder who provides goods or services at the best value to the City. When determining "best value," the City may consider: (1) the reputation of the bidder and the bidder's goods or services; (2) the quality of the bidder's goods or services; (3) the bidder's past relationship with the City and/or (4) any other lawful criteria. **Quotes should be forwarded along with the requisition request to Finance.** Finance reserves the following rights:

- To change the vendor award when a contract exists or better pricing is available.
- To audit Department files to determine that the lowest responsible bid or bid offering best value to the City was selected.

The following sequence of events applies:

1. Request quotes from three or more vendors capable of providing the item or service specified.
2. Quotes received by a certain time and date are recorded.
3. Department Manager selects lowest responsible bid or bid offering best value to the City.
4. A requisition is submitted to Finance along with a copy of all quotes received.
5. Finance approves and issues a Purchase Order.
6. **Upon receipt of Purchase Order.** Department makes purchase and instructs vendor to reference purchase order number on invoice.
7. Upon receipt of item or satisfactory completion of service, Department forwards properly approved and coded invoice to Accounts Payable for payment.

**Purchases more than \$3,000 up to the threshold set by State law for sealed bids (currently \$50,000)** - All contracts or purchases will be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value to the City after receiving at least three estimates from prospective bidders. When determining "best value," the City may consider: (1) the reputation of the bidder and the bidder's goods or services; (2) the quality of the bidder's goods or services; (3) the bidder past relationship with the City and/or (4) any other lawful criteria. **State law requires that at least two (2) Historically Underutilized Businesses (HUB's) be contacted on a rotating basis.** If no disadvantaged businesses providing the goods or services specified are listed on the State Comptroller's website in the county in which the City is situated, then the City is exempt from this requirement.

The typical sequence of events is outlined as follows:

1. Request quotes from three or more vendors capable of providing the item or service specified. Pursuant to State law, prospective vendors contacted should include two or more Historically Underutilized Businesses (HUBs) registered on the State Comptroller's website and located in the county. HUBs should be contacted on a rotating basis.
2. Quotes received by a certain time and date are recorded.
3. Department Manager selects lowest responsible bid or bid offering best value to the City.
4. A requisition is submitted to Finance along with a copy of all quotes received.

5. Finance approves and issues a Purchase Order.
6. **Upon receipt of Purchase Order.** Department makes purchase and instructs vendor to reference purchase order number on invoice.
7. Upon receipt of item or satisfactory completion of service, Department forwards properly approved and coded invoice to Finance for payment.

**Purchases greater than the threshold set by State law for sealed bids (currently \$50,000) -**

After completion of competitive bidding in accordance with the requirements of *Chapter 252 of the Local Government Code, use of reverse auction in accordance with Section 2155.062(d) of the Government Code, or a project delivery method described in Chapter 2269 of the Government Code for construction contracts* and the procedures set forth in this document, the City will award all contracts or purchases involving the higher of either \$50,000 or the threshold set by State law to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City or as otherwise permitted by law. When determining “best value,” the City may consider: (1) the reputation of the bidder and the bidder’s goods or services; (2) the quality of the bidder’s goods or services; (3) the bidder’s past relationship with the City and/or (4) any other lawful criteria.

**Caution: state law prohibits the purchase of goods or services in a sequential or component manner in order to avoid the requirements of Subsection 252.021 and/or other laws regarding procurement.**

**The policy and procedures for obtaining quotations for small or non-routine purchases protects the City from paying excessive prices but does not substitute for compliance with state law.**

**Failure to follow state law with respect to competitive bidding is a Class B misdemeanor.**

The typical sequence of events is outlined as follows:

1. Budget approval by City Council.
2. Determination is made as to the method of purchase that will provide the best value to the City if a method other than competitive sealed bidding is considered. The City Council may make this determination or may designate a representative to make the determination at their discretion.
3. Specifications and proposed contracts are developed and approved by the involved Department and Finance.
4. Bids published and mailed with first newspaper advertisement.
5. Pre-bid meeting is conducted (if necessary).
6. Second advertisement is published (seven days after the first).
7. Bid opening (must be no sooner than the 15th day after the first advertisement).
8. Bid award by Council.
9. Purchasing issues Purchase Order(s).

Exceptions as listed in **Section 252.022. “Competitive Bidding or Competitive Proposals Required”**; **“General Exemptions” Tex. Local Gov’t Code** apply to both formal and informal bid processing. Exceptions must be communicated to Purchasing in writing. Additional documentation may be required by Purchasing to document the circumstances of the exception.

**EXEMPT PURCHASES**

## GENERAL

There are several categories of purchases that are exempt from formal procurement procedures:

- 1. Emergency Purchases** - Purchases that are required immediately for purposes that couldn't reasonably have been foreseen are exempt from formal procurement procedures. The Finance Director must concur that an emergency exists prior to approval.
- 2. Sole Source Purchases** - Purchases available from only one supplier are exempt from bidding requirements. Some effort is required to determine a purchase is truly sole source. See the section on sole source purchases in this chapter.
- 3. Other Exempt Purchases** - The statutes authorize other categories of exempt purchases. Professional or personal services, purchases of services performed by blind or severely disabled persons, purchases from other governments, some auctions and going out of business sales, and various other purchases are exempt under provisions of the Texas Local Government Code.

## EMERGENCY PURCHASES

Texas statutes generally allow the local government to make emergency or exempted purchases without competitive bidding. Council approval prior to purchase is advised, if practical. If this is not feasible, emergency purchases exceeding the threshold set by State law for competitive bidding should be ratified by the Council.

Although there is no clear definition of what constitutes an emergency purchase, a political subdivision is generally exempted from competitive bidding when any one of the following conditions exists:

1. The prompt purchase of items because of a public calamity that requires an immediate appropriation to provide for the needs of the public or to preserve the property of the municipality.
2. The item is necessary to preserve or protect the public health or safety of residents of the political subdivision.
3. The item is made necessary by unforeseen damage to public machinery, equipment, or other property.

Since these exemptions are stated in broad terms, the user Department must justify the emergency and submit documentation of the circumstances that substantiates the necessity to make an emergency purchase to the Finance Director.

The following are guidelines for dealing systematically with emergency purchases.

- 1. QUALIFICATION:** The purchase must qualify as an emergency purchase under the definition in the Local Government Code Section 252.022. The buyer will contact the Finance Director to describe the circumstances that qualify the purchase as an emergency. The Finance Department will assist the responsible official in the determination of the emergency status and a practical plan for the purchase.

2. **DESIGNATION:** The designation of emergency purchase indicates a situation of such urgency that the normal purchasing procedure must be modified in the interest of speed, and therefore no competitive bids are required. If the nature of the emergency allows, informal quotes are required.
3. **NORMAL WORKING HOURS:** All emergency purchases occurring during normal working hours are processed through Finance as follows:
  - a. The user Department will notify the Finance Director immediately with as much information as possible about the emergency purchase and follow that with an e-mail to the Finance Director, with a copy to their Department Head, detailing the circumstances designating the purchase as an emergency. Finance will assign a pre-approved Purchase Order number for this emergency.
  - b. A purchasing requisition is prepared (by the Department) and approved through the normal channels, using the pre-approved Purchase Order number. If the purchase exceeds \$500 a copy of the e-mail to the Finance Director should be attached to the purchasing requisition.
  - d. Simultaneously, the buyer Department should request expedited delivery.
4. **EVENINGS, WEEKENDS AND HOLIDAYS:** For other than normal working hours, when Finance support is unavailable, procedures are as follows:
  - a. The responsible official of the Department takes whatever steps are necessary to procure needed supplies, services or equipment to relieve the emergency situation. **Only those goods or services actually needed during the evening, weekend or holiday may be procured.**
  - b. If the purchase exceeds \$500, the responsible official will notify Finance on the first day following the emergency and prepare an email to the Finance Director and their Director citing the circumstances of the emergency and certifying that the purchase involved was necessary because of one of the reasons listed in Chapter 252.022. When submitting resulting items to Accounts Payable for payment, the responsible official shall attach to the approved and coded invoices, any bills for materials, receipts, or other documents related to the purchase along with a copy of the email that certified the purchase as an emergency purchase.

## **SOLE SOURCE PURCHASES**

**Sole Source Purchases.** There are many reasons why a purchase might be possible or practical from only one vendor:

1. There is no competitive product. The good/service is a one-of-a-kind or patented product, a copyrighted publication available from only one source, or a unique item such as work of art.
2. The product is only available from a regulated or natural monopoly. For example, regulated utility, gravel from the only pit in the area or some similar situation are natural monopolies.
3. The product is a component of an existing system that is only available from one supplier. The replacement of a component or a repair part may only be available from the original

supplier.

There are a number of reasons why the City may occasionally use sole source purchases, and it is proper to have the flexibility to make these purchases. However, sole source purchases must be strictly controlled, since they are directly contrary to the competitive process.

Under most conditions, a sole source purchase should be the subject of a certain amount of negotiation. The purchaser should prepare a detailed list of requirements relating to delivery, quality, performance and other conditions, and be prepared to withhold final intent to purchase in order to negotiate the best price and service. The buyer should do everything in his power to strengthen the City's bargaining position.

**Sole Source Purchase Procedure.** Sole source purchases are handled the same as other purchases, with these exceptions:

1. If the requisitioning party determines that the item is a sole source purchase, one of the following should be attached to the requisition:
  - A statement from the vendor attesting to the fact that the item(s) requested is available from only that vendor.
  - An explanation of why this is a sole source purchase as well as information concerning attempts to obtain competitive bids on the item(s) requested.
2. The requisition is then completed in accordance with established procedure.
3. Finance determines that the item is a sole source purchase. Finance reserves the right to require publication of specifications and advertise for bids to verify sole source status.
4. After the requisition is approved, the Purchase Order is prepared and processed according to established procedure.

## **PROFESSIONAL SERVICES**

Professional services are exempt from competitive bidding but not from a competitive process. Professional services are defined as those disciplines requiring special knowledge or attainment and a high order of learning, skill and intelligence.

**Professional Services Procurement Act** (Tex. Gov't Code Ann. § 2254.003 et. seq.) - This Act states that contracts for the procurement of a *certified public accountant, licensed architect, physician, optometrist, registered surveyor, engineer or any group or association thereof* **may not be awarded** on the basis of cost. Instead, they must be awarded on the basis of demonstrated competence and qualifications, so long as the professional fees are consistent with, and not higher than the published recommended practices and fees of the various professional associations, and do not exceed any maximums provided by state law.

When procuring architectural or engineering services, the Department will use a two-step selection process. First, the entity will select an individual or firm that is capable of performing the service, on the basis of demonstrated competence and qualifications. Second, the entity will then enter into negotiations on a contract at a fair and reasonable price

If the City is unable to negotiate a satisfactory contract with the most highly qualified individual or



firm, it will formally end negotiations with that person or firm, and then proceed to the next most highly qualified and repeat the process. Negotiations are carried on in this sequence until a contract is made.

If any agreement or contract is entered into with one of the above-mentioned professionals on the basis of a competitive bid, it is contrary to public policy and is void. Note that these services are exempt from the bidding requirement, but *not* from proper approval by the governing body.

Professional Services contracts exceeding the established bid limit *require City Council approval.*

## **COOPERATIVE PURCHASING**

The Interlocal Cooperation Act (Tex. Gov't Code Ann. § 791.001 et. seq.) allows local governments to contract with one another, and with an agency of the state, or a similar agency of another state to perform "governmental functions and services." Purchasing, data processing, warehousing, equipment repair, printing, and parks and recreation services are included in the list of governmental functions. Note that these purchases are not exempt from competitive bidding, but are bid and contracted for purchases by agencies participating in the cooperative effort.

Local governments and agencies involved must contract with one another to participate in these types of agreements. The City is authorized to participate in various cooperative purchasing programs including the State of Texas, the Houston Galveston Area Council, Tarrant County and BuyBoard. For more information, Departments may contact Finance.

## **AUCTION PURCHASES**

Municipalities may purchase items at an auction. The only critical requirement is that an auctioneer licensed in the State of Texas must conduct the auction.

These purchases must be coordinated through the Finance Department to ensure that the proper authority bids and that budget and purchasing procedures and guidelines are followed.