



COMMISSIONERS COURT  
COMMUNICATION

COURT ORDER NUMBER 144993  
PAGE 1 OF 20  
DATE: 4/2/2025

SUBJECT: **CONSIDERATION OF TARRANT COUNTY PURCHASING POLICIES AND PROCEDURES MANUAL REVISIONS - AMENDMENT OF SECTIONS 2 AND 14**

**\*\*\* CONSENT AGENDA \*\*\***

**COMMISSIONERS COURT ACTION REQUESTED**

It is requested that the Commissioners Court consider and accept the amendments to Sections 2 and 14 of the Tarrant County Purchasing Policies and Procedures Manual.

**BACKGROUND**

Purchasing hereby submits a recommendation to revise the County Purchasing Policies and Procedures Manual to reflect amendments to the following Sections:

- Section 2      Definition of Terms
- Section 14     Construction Purchasing

The purpose of the revisions is to clarify execution of bonds related to approved annual contracts, add certain definitions, remove redundancies, and clarify construction change orders.

The County has court-approved annual, competitively-bid contracts in place for maintenance and repair. For example, annual contracts are in place for road and bridge and facility repair work. In certain situations, immediate repair is necessary to prevent damages to public property "or preserve or protect" the public health or sale of the residents of the County.

Texas Local Government Code, Section 262.024 defines discretionary exceptions to the competitive requirements for certain purchases stated in Texas Local Government Code 262.023:

*"Sec. 262.024. DISCRETIONARY EXEMPTIONS. (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:*

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;*
- (2) an item necessary to preserve or protect the public health or safety of the residents of the county;*
- (3) an item necessary because of unforeseen damage to public property;"*

SUBMITTED BY	Purchasing	PREPARED BY:	Melissa Lee, C.P.M., A.P.P.
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Tarrant County Purchasing Policies and Procedures state the following explanations of an expedited or emergency purchase:

*"9.3.2 Expedited Purchases where the goods or services are needed sooner than the routine cycle time. Expedited purchases do not qualify as emergency purchases and are subject to all applicable bidding requirements. Cycle time for expedited purchase requisitions is one to three (1-3) working days.*

*Note: Expedited purchases are NOT emergency purchases. They are goods or services needed quickly to prevent costly delays or work stoppage. Expedited purchases probably warrant the additional cost and effort caused by the interruption of the normal work routine. They should not be used unless absolutely necessary. The user department should always telephone the appropriate buyer and make them aware of any such problem, as well as put the appropriate information in the requisition text section.*

*9.3.3 Emergency Purchase of any goods or services needed because of an emergency condition that the Commissioners Court has ordered exempt, in compliance with the County Purchasing Act [Texas Local Government Code, Section 262.024(a)(1-3)]. All emergency exemption orders must be processed through the Purchasing Department. The Purchasing Agent will submit these as an agenda item for the Commissioners Court approval:*

- 1. Emergency items less than \$50,000 will be handled in the same manner as an expedited purchase requisition.*
- 2. Emergency items greater than \$50,000 must be placed on the Commissioners Court agenda."*

Also, Tarrant County Purchasing Policies and Procedures details the exemption to the competitive bid process, also relating to 262.024.

*"21.1 Purchasing Act. Many goods and services can be exempt from the competitive bid process if the Commissioners Court orders the purchase exempt. Discretionary Exemptions, Section 262.024(a) of the Texas Local Government Code lists in detail all the circumstances when exemptions are available for purchases made from current funds, bond funds, or through warrants. The following is a comprehensive list of these circumstances:*

- 1. an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county,*
- 2. an item necessary to preserve or protect the public health or safety of the residents of the county,*
- 3. an item necessary because of unforeseen damage to public property,"*

The Purchasing Agent and the requesting department will discuss each situation and determine if it meets the emergency criteria, required written approval by the County Administrator. If the situation is deemed an emergency, the Purchasing Agent, through this updated section 14.14, will be able to receive any required bonds for the project on behalf of the County.



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On March 24, 2025, the Purchasing Board approved the above amendments to Sections 2 and 14 of the Tarrant County Purchasing Policies and Procedures Manual.

## **FISCAL IMPACT**

There is no fiscal impact associated with this item.

Payment Bond – A guarantee that promises payment to subcontractors and suppliers on a contract during performance. It must be submitted prior to any work. It is normally one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety but can be cashiers or certified check. It is normally maintained until expiration of any required warranty. If the contractor fails to pay subcontractors and suppliers, then the payment bond is “called” for the amount of non-payment.

Performance Bond – A guarantee that promises that the contract will be performed as required. It must be submitted prior to any work. Normally it is one hundred percent (100%) of the contract price and is in the form of a financial guarantee provided by a surety but can be cashiers or certified checks. It is normally maintained until expiration of any required warranty. If the contractor fails to perform and complete the contract as required, then the performance bond is “called” for the amount required to complete the contract. A surety that provides a bond may be permitted to “take over” a failed or defaulted contract.

Change Order – A written alternation that is used to modify or amend a contract or purchase order.

Commissioners Court – Tarrant County Commissioners Court.

Commodity - Generally, the term means supplies, materials or equipment.

Competitive Bidding – The process of inviting and obtaining bids from competing suppliers, by which an award is made to the lowest responsive bid from a responsible bidder meeting written specifications.

Competitive Proposal Process – Allowing available vendors compete with each other to provide goods and services in compliance with Texas Local Government Code Chapter 262.

Component Purchases – Purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Contract – A formal written agreement executed by the County and a vendor containing the terms and conditions under which goods and services are to be furnished to the County. A contract, when properly signed by the authorized County representatives, is a commitment for County funds.

Contractor - A business entity or individual that has a contract to provide goods or services to the County.

Construction – The process of using labor to build, alter, repair, improve, or demolish any structure, building, or public improvement; generally does not apply to routine maintenance, repair, or operation (MRO) of existing real property.

Respondent - An individual or entity that submits an offer or proposal. The term includes anyone acting on behalf of the individual or entity that submits an offer or proposal, such as an agent, employee, and representative. See Bidder

SAP – Tarrant County Enterprise Management System that includes the Purchasing module.

Scope of Work - A section of a solicitation that provides a description of the products and services to be provided by the vendor.

Sealed Bids – Sealed Bids or Proposals - A response which is kept secure and unopened until after the due date and time specified in the solicitation.

Separate Purchases – Purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

Sequential Purchases – Purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Services – Includes all work or labor performed for the County on an independent contractor basis, including maintenance, construction, manual, clerical, personal, or professional services.

Sole Source– A good or service that can be obtained from only one (1) source that is purchased in compliance with the Texas Local Government Code, Section 262.024(a)(7).

Solicitation – A document, such as an invitation for bid (IFB), request for proposal (RFP), request for offers (RFO), request for quotation (RFQ), or request for qualifications (also, RFQ), issued by the Purchasing Department. This document contains terms and conditions for a contract, and it seeks (solicits) a bid or proposal for goods and services needed by the County.

Specifications – A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract.

State - The State of Texas

Suspension – May be based on indictments, information or adequate evidence involving environmental crimes, contract fraud, embezzlement, theft, forgery, bribery, poor performance, non-performance, or false statements. This is a temporary action which may last up to one (1) year and is effective immediately.

Time and Materials (T&M) contract – a type of cost-reimbursement contract which provides for acquiring supplies or services on the basis of 1) direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and 2) actual costs for materials.

## 14 Construction Purchasing

### 14.1 Purchasing Statutes

262.011(e) of the Texas Local Government Code states that “The County Purchasing Agent shall supervise all purchases made on competitive bid.”

Section 271.024 of the Texas Local Government Code states that “to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$50,000, bidding on the contract must be accomplished in the manner provided by this subchapter.”; and, Section 271.0245 of the Texas Local Government Code details additional competitive procedures.

### 14.2 Architectural And Engineering Services

When procuring architectural or engineering services, Tarrant County will use a two-step selection process as stated in Texas Local Government Code 2254.004:

*“(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:*

*(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and*

*(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.*

*(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:*

*(1) formally end negotiations with that provider;*

*(2) select the next most highly qualified provider; and*

*(3) attempt to negotiate a contract with that provider at a fair and reasonable price.*

*(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.”*

If any contract is entered into with one of the above mentioned professionals on the basis of a competitive bid, it is contrary to State law and County policy, and is void.

### 14.3 Value Engineering

The County shall also use value engineering methods for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value, as defined, is the ratio of function to cost. Value can therefore be manipulated by either improving the function or reducing the cost. However, it is important to note that simply reducing cost at the expense of quality is not value engineering but merely cost cutting. Value engineering allows the County to “do more with less”. Value engineering is a systematic method to obtain optimum value for each dollar spent. This can be done by completing a methodical and creative analysis of goods, products, or services to ensure that its essential function is provided at the overall lowest cost.

#### 14.4 Time & Material Agreements

Tarrant County may use a Time and Materials (T&M) ~~time and materials~~ type contract only after a determination that no other contract is suitable, ~~and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to Tarrant County is the sum of:~~

~~1. The actual cost of materials; and~~

~~2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.~~

~~Each time and material contract must set a ceiling price that the contractor exceeds at its own risk. Further, Tarrant County will assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.~~

~~A Time and Materials (T&M) contract~~ A T&M contract is a type of cost-reimbursement which provides for acquiring supplies or services on the basis of:

- Direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and
- Actual costs for materials.

Time and Materials contracts can only be reimbursed for the actual cost of materials. The County must **not** pay profit or fee to the contractor on materials, materials must only be paid at cost.

Labor rates under a T&M ~~Time and Materials~~ contract must be **fully loaded** (i.e. they must include wages, overhead, general and administrative expenses, and profit). When negotiating the labor rates, the contractor must provide the County with its rate buildup or a breakdown of each component of the labor rate. The County can then use this information to negotiate profit as a separate element.

~~Tarrant County shall use Time and Materials contracts only:~~

- ~~After determining that no other type of contract is suitable; and~~
- ~~If the contract specifies a ceiling price that the contractor will not exceed except at its own risk.~~

This contract format generates an open-ended contract price and provides no positive incentive to the contractor for cost control or labor efficiency. ~~Therefore, each contract MUST set a ceiling price that the contractor exceeds at its own risk. Tarrant County shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. Tarrant County should avoid protracted use of Time and Materials contracts. Tarrant County should avoid protracted use of T&M contracts.~~

Tarrant County will assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

#### 14.5 Purchasing Supervision

Construction purchasing will be consistent with other procurement procedures as defined in this manual and in accordance with the pertinent statutes. The Purchasing Agent will supervise all construction purchases, and all competitive bids will be accompanied by the following:

#### 14.6 Purchase Requisition

A memo will be submitted to the Purchasing Agent, signed by the Official, Department Head, or Executive Manager. This memo will serve as the initial notification that a competitive bid is needed, and this project will be placed on the Commissioners Court agenda for approval to bid. After the approval, the process has been completed in the Commissioners Court and prior to developing the specifications, the user department should contact the Senior Contracts Administrator to obtain a Request for Bid (RFB) number and contract number, when applicable. The specifications will include the statutory Worker's Compensation provision in the appropriate format. A draft copy of the plans and specifications should also be submitted with the original notification memo. The specifications will be reviewed and approved by the Purchasing Department, for compliance with the Purchasing Act, and by the Criminal District Attorney's Office prior to the user department submitting them to the printer for copies.

Purchasing should be provided a minimum of five (5) business days for review of the plans and specifications. During this time, Purchasing will confer with the user department to establish dates and times for a pre-bid conference (mandatory or nonmandatory), bid opening date, and pre-construction conference. An RFB number or contract number will be assigned to the project at this time by the Purchasing Department, if not already assigned.

#### 14.7 Bidding Notice

The Purchasing Department will publish the legal advertisement for bid, according to Texas Local Government Code 271.025, which must include the following:

*(a) The governmental entity must advertise for bids. The advertisement for bids must include a notice that:*

- (1) describes the work;*
- (2) states the location at which the bidding documents, plans, specifications, or other data may be examined by all bidders; and*
- (3) states the time and place for submitting bids and the time and place that bids will be opened.*

The legal notice must be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation in Tarrant County, with the date of the first publication fourteen (14) days before the date set for the public bid opening.

#### 14.8 Consideration Of Safety Records

Texas Local Government Code 271.0275 and 262.0275 states:

*“In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:*

- (1) the governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder;*
- (2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and*
- (3) the determinations are not arbitrary and capricious.”*

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

1. If the bidder in response to questions in the safety record questionnaire reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the last three (3) years, the County may determine whether to disqualify the bidder.
2. If the bidder in response to the questions in the safety record questionnaire reveals more than one (1) case in which the bidder has received citations for violations of environmental protection laws or regulations within the past three (3) years, the County may determine whether to disqualify the bidder. Environmental protection agencies include the Environmental Protection Agency (EPA), Texas Natural Resource Conservation Commission (TNRCC) and its past associated agencies, the Texas Water Commission, Texas Department of Health, Texas Control Board, and similar regulatory agencies of other states. Citations will include notice of violation, suspension/revocation of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
3. If the bidder in response to the questions in the safety record questionnaire reveals that the bidder has been convicted of a criminal offense within the past ten (10) years that resulted in serious bodily harm or death, the County will determine whether to disqualify the bidder.

#### **14.9 Cost Analysis Process**

- Step 1: The Purchasing Department shall ensure the Independent Cost Estimate, completed prior to soliciting for the work, provides a breakdown of all cost components. If not, the Purchasing Department shall require that the User Department rework the Independent Cost Estimate to reflect a sufficient breakdown of all costs, including labor, material, administrative, overhead, and fee or profit.

- Step 2: If necessary, the Purchasing Department shall obtain a breakdown of the bidder's or offeror's proposed costs. If costs are not already broken down in the bid or proposal, the Purchasing Department shall request that a breakdown of costs is provided for each major category.
- Step 3: The Purchasing Department shall require the User Department to take the Independent Cost Estimate and the bid or proposal and perform Cost Analysis on each element.
- Step 4: The Cost Analysis shall be signed and dated by the person completing the analysis and knowledgeable on the procurement. All Cost Analysis documentation, including justification and backup documentation, must be included in the procurement file.
- Step 5: Based on the completed cost analysis, the User Department, in partnership with the Purchasing Department when necessary, shall determine whether proposed costs are fair and reasonable.
- Step 6: Results of the cost analysis shall be used as a basis for negotiation of profit as a separate element.
- Reminder: Profit must be negotiated as a separate element of price for each contract in which there is no price competition (e.g., Construction Change Order), and in all cases where cost analysis is performed (e.g. upon receipt of a cost proposal under a Request for Qualifications).
- The level of detail and complexity of the cost analysis should be commensurate with the dollar value and complexity of the contract. For example, in a construction Change Order proposal for \$70,000, where the changes to the specifications only result in added labor hours, and the wage rates are at the Davis-Bacon wages, the Cost Analysis may be limited to determining the reasonableness of the number of hours proposed. If, however, the Change Order proposal was for \$250,000 and included additional labor hours, added material, new subcontracts, and other items, a full Cost Analysis of each component should be conducted to determine that it is consistent with similar costs for the components or consistent with current market pricing and reasonable for the level of effort for the additional work being conducted.

#### **14.10 Bonding Requirements**

~~No bonds may be required for construction contracts that are less than \$50,000.~~

For construction or building improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, bond policy must adequately protect Federal interest. Tarrant County's bonding requirements are listed below, which comply with the minimum bonding requirements

mandated by 2 C.F.R. 200.325. The bonding company used by a contractor to provide payment and bonds must be listed with the Department of the Treasury's Listing of Approved Sureties.

#### **14.11 Bid Bonds**

Bid bonds will not be required for construction contracts that are less than \$50,000.

For a construction project on bid price over \$50,000, the contractor may be requested to furnish, with the bid, a cashier's check or bidder's bond payable to Tarrant County in an amount of not less than five percent (5%) of the largest possible total of the bid submitted and is subject to forfeit in the event the successful bidder fails to execute the contract documents within ten (10) days after the contract has been awarded.

#### **14.12 Power Of Attorney**

The attorney-in-fact who signs bid or contract bonds must file with each bond a certified and current copy of the power of attorney.

#### **14.13 Performance Bonds**

For all contracts in excess of \$100,000 for the construction, repair, or alteration of a public work, or the prosecution of completion of any public work, the contractor, before commencing work, must execute a performance, bond that:

1. is payable to Tarrant County, Texas,
2. is in the full amount of the contract,
3. is executed upon faithful performance of the work in accordance with the plans, specifications, and contract documents,
4. is solely for the protection of the County,
5. is executed by a corporate surety or sureties in accordance with the Insurance Code, and
6. is in a form approved by the Commissioners Court.

Any performance bond that is furnished by a contractor in attempted compliance with the requirements of Texas Government Code Annotated, Ch. 2253, will be construed as in conformity with that chapter in relation to rights created, limitations on the bond, and remedies provided.

#### **14.14 Payment Bonds**

For all contracts in excess of \$25,000 for the construction, repair, or alteration of a public work, or the prosecution of completion of any public work, the contractor, before commencing work, must execute a payment bond that:

1. is solely for the protection of all claimants supplying labor and materials in the performance of work provided in the contract,
2. is payable to Tarrant County, Texas, for the use of these claimants,
3. is in the full amount of the contract,
4. is executed by a corporate surety or sureties in accordance with the Insurance Code, and
5. is in a form approved by the Commissioners Court.

Payment bonds must be effective from commencement of performance until the end of the fourth month after all items of work for the project are completed unless releases are obtained from all subcontractors and material men. Any payment bond that is furnished by a contractor in attempted compliance with the requirements of Texas Government Code, Ch. 2253, will be construed as in conformity with that chapter in relation to rights created, limitations on the bond, and remedies provided.

Section 262.032 of Texas Local Government code details bond requirements outside of Texas Government Code 2253.

In emergency cases, the Commissioners Court may delegate the authority for the acceptance of bonds, including performance and payment bonds, to the County Administrator for service and repairs under an annual contract already approved by the Commissioners Court. The Purchasing Agent and the requesting department will discuss each situation and determine if it meets the emergency criteria, which will require written approval by the County Administrator.

#### **14.15 Examination Of Existing Premises:**

It is understood and agreed that the contractor has by careful examination satisfied himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the County, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained. The bid shall be based only on the specifications, supplemented by the affecting conditions.

#### **14.16 Insurance:**

- A. The contractor shall take out, pay for, and maintain at all times during the prosecution of the work under the contract, the following forms of insurance, in carriers acceptable to and approved by Tarrant County:
1. Worker's Compensation – statutory.
  2. Employer's Liability - \$500,000.
  3. Comprehensive Commercial General Liability:
    - a) Bodily Injury/Personal Injury - \$1,000,000 per occurrence,  
\$2,000,000 aggregate
    - b) Property damage - \$1,000,000 aggregate.
  4. Automobile Liability:
    - a) Bodily Injury - \$500,000 per accident or \$500,000 aggregate
    - b) Property damage - \$100,000 each occurrence.
  5. Contractual Liability – same limits as above.
- B. The County reserves the right to review the insurance requirements during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by the County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the contractor.
- C. Required Insurance Provisions:

1. Proof of Carriage of Insurance – All certificates of insurance will be required in duplicate and filed with the Purchasing Agent and the Budget and Risk Management Department located at 100 East Weatherford Street, Suite 305 Fort Worth, Texas 76196.
2. All certificates shall provide Tarrant County with an unconditional thirty (30) days written notice in case of cancellation or any major change.
3. As to all applicable coverage, certificates shall name Tarrant County and its officers, employees, and elected representatives as an additional insured.
4. All copies of certificates of insurance shall reference the project name and bid number for which the insurance is being supplied.
5. The contractor agrees to waive subrogation against Tarrant County, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent it may be covered by the proceeds of insurance.
6. The Contractor/Vendor is responsible for making sure any sub-contractor(s) performing work under this agreement has the required insurance coverage(s) and supplies Tarrant County with the proper documents verifying the coverage.

#### **14.17 Indemnification**

The Contractor agrees to fully indemnify and save whole and harmless the County of Tarrant from all costs or damages arising out of any real or asserted claim or cause of action against it of whatsoever kind or character and in addition, from any and all costs or damages arising out of any wrongs, injuries, demands or suits for damages, either real or asserted, claimed against it that may be occasioned by any act, omission, neglect or misconduct of the said Contractor, his agents, servants, and employees.

#### **14.18 Pre-Bid Conference**

The Purchasing Department will ensure that purchasing procedures are followed, as stated in Texas Local Government Code 262.0256, and the user department will provide technical information and ensure that technical standards are upheld. Purchasing will schedule the pre-bid conference and will assist in conducting the conference to the following extent:

1. Have all representatives sign the attendance roster.
2. Provide a brief introduction describing the project title, magnitude, and performance period.
3. Indicate whether there has been any addenda issued.
4. Discuss the role of Purchasing in the procurement and administration process.

5. Discuss Disadvantaged Business Enterprise (DBE) expectations or requirements as outlined in the appropriate section of the specifications.
6. Have the project engineer or architect discuss the specifics of the project to include a review of the plans and specifications, allowing for a question and answer session.
7. Determine any issues discussed that require the issuance of an addendum. All addenda will be issued by the Purchasing Department and will only be issued if there are at least seven (7) days between the date of the addendum and the specified opening date. Shorter time frames will automatically delay the bid opening date by at least one (1) full week. The user department will provide Purchasing with the technical documentation (i.e., changes/additions to the plans or specifications). Purchasing will be responsible for posting the addendum.

#### **14.19 Mandatory Pre-Bid Conference**

A mandatory pre-bid conference may be employed to ensure that vendors attend conference to become aware of important facts and enforce that only attendees be eligible for award, as stated in 262.027 (f), which states, *“Notwithstanding any other requirement of this section, the commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.”*

#### **14.20 Receipt Of Competitive Bids**

The following procedures will be adhered to when receiving bids:

1. All bids will be received by the Tarrant County Purchasing Department.
2. The eProcurement system will timestamp each proposal upon submission.
3. Bids will not be accepted after the opening time on the date of proposal opening.
4. Bids will store digitally in the eProcurement system and will remain unsealed until digitally opened on the advertised date and time by the Purchasing Department.

#### **14.21 Public Bid Openings**

Bids will be opened by the Purchasing Department and the preliminary tabulation will be publicly posted. Copies of preliminary bid tabulations may be downloaded from the eProcurement website. Note that preliminary bid tabulations are subject to change prior to award recommendation.

#### **14.22 Bid Evaluations**

The Purchasing Department will evaluate all bids, with assistance from the user department, and a joint recommendation will be made to the Commissioners Court. Purchasing will include an Email with permission from the Purchasing Agent or a signed memo from the user department stating bid acceptance and any other documentation as agenda backup material. The Purchasing Department will be responsible for placing the item on the agenda for the Commissioners Court.

Evaluation of bids will be based on the following factors:

1. the relative prices of the bids, including the cost of repair and the cost of delivery and hauling,
2. compliance of goods and services offered with the bid specifications, and
3. the responsibility of the vendor, including the vendor's safety record, if the Commissioners Court has adopted a definition of safety that is included in the bid, and the vendor's past performance.

When the lowest priced bid is not the best bid, clear justification for not selecting the lowest bidder must be documented to the Court. This recommendation will be supported by clear and concise documentation from the user department that explains the rationale for awarding to other than the lowest bidder. A joint review of the bid by the user department and the Purchasing Department is required.

#### **14.23 Contract Award**

The Purchasing Department will recommend the contract award to the Commissioners Court in session. The Court shall, as defined in Texas Local Government Code 262.027(a):

1. Award the contract to the responsive and responsible bidder who submits the lowest and best bid, or
2. Reject all bids and publish a new legal notice.

If two (2) responsive and responsible bidders submit the lowest and best bid, the Purchasing Agent will determine the award recommendation in accordance with the Commissioners Court Order No. 60616, Procedure for Awarding Tie Bids, which is accomplished by a coin toss to decide the successful vendor for award as described in Texas Local Government Code 262.027(b).

If only one bid is received in response to a competitive procurement, Tarrant County must, upon request from the Federal awarding agency, make available for review the procurement documents, which may include Invitations for Bid documents or independent cost estimates.

As described in Texas Local Government Code 262.027(c), a contract may not be awarded to a bidder who is not the lowest responsive and responsible bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence to dispute that recommendation. After an award, the County Judge will sign the contract on behalf of the County, and the Purchasing Agent or designee will return the bid bonds of any contractor not awarded a contract.

After an award is made, a contract will be processed; originals or copies of the contract will be sent to all appropriate parties, whether for public works or nonpublic works contracts; and an original will remain on file in the Purchasing Department.

A Notice-of-Award (NOA) letter, which will be issued by the Purchasing Department, will accompany the contractor's copy of the contract. The NOA letter will include the requirements for submission of various documents by the contractor and the time period within which they must be received. For example, bid and performance bonds, along with the insurance certificate, must be submitted within ten (10) business days after receipt of the NOA letter. DBE documentation and a program schedule will be required at the pre-construction conference. The NOA will also state that Notice-to-Proceed will not be issued until such time as the required documents are submitted by the contractor within the specified time period.

#### **14.24 Pre-Construction Conference**

The Purchasing Department will be responsible for scheduling the Pre-construction Conference. The user department is responsible for all technical presentations, and the Purchasing Department is responsible for ensuring that all applicable purchasing procedures are followed. Purchasing will assist in conducting the conference to the following extent:

1. Have all attendees sign the attendance roster, introduce themselves, and briefly explain their involvement in the project.
2. Briefly discuss the contract requirements, amount, and any other pertinent information about the project. The user department representative will be responsible for providing a thorough synopsis of contract requirements and any County policies that must be adhered to.
3. Establish dates for submission of all required documents, such as material submittals, payables, progress reports, etc.
4. If not previously provided, receive required documents from the contractor, i.e., performance bond, payment bond, insurance certificate, and the appropriate DBE documentation.
5. After receipt of the required documents, the timing of the Notice-to-Proceed will be determined by the user department. It is important to note that the Notice-to-Proceed will not be issued until all required bonds and insurance have been received and verified with the appropriate agency.
6. Ensure a complete understanding of all issues by all parties prior to the adjourning.

#### **14.25 Contract Administration**

The user department will be responsible for monitoring and documenting contractor performance/compliance and will provide Purchasing with copies of this documentation to keep the Purchasing Department apprised of all performance or compliance issues. Discussions that explain the interpretation of the specifications may be dealt with orally by the user department. If poor performance or noncompliance with the contract is experienced, the user department will be responsible to initiate written corrective action with the contractor. Purchasing will be provided an advance copy of any written correspondence directing correction of a discrepancy. The user department will solicit Purchasing to initiate corrective action, in

consultation with the user department, when the user department cannot resolve any conflict through correspondence.

The occupant department must not provide any instructions or requests for changes directly to the contractor. The occupant department must provide all information necessary for the contractor to meet its needs, either through the user department responsible for constructing the facility or the Purchasing Department. Only the user department's project manager or the Purchasing Agent has the authority to give directions to the contractor.

The Purchasing Agent will take all steps related to correcting noncompliance with the contract but must consult with the Criminal District Attorney's Office before taking any steps toward suspension or termination of the contract unless an emergency, life safety, or property damage issues require immediate temporary work stoppage. Before any letters, notices, and other communications related to termination or suspension are issued, the contents of these must be reviewed by the Criminal District Attorney's Office, as the initial steps toward potential litigation.

Documentation of contractor performance is often overlooked and is, perhaps, one of the most important. To enforce contractual terms, documentation of specific noncompliance must be available. Specific dates, examples, etc., must be documented.

Contract administration duties shall include, but not be limited to, the following activities. Unless otherwise noted, the following are responsibilities of the Purchasing Department:

1. Schedule and assist in conducting the pre-construction conference.
2. Maintain a comprehensive, neat, and orderly contract file that includes all documentation relative to the procurement process and includes pre-solicitation, solicitation, contract award, post-award, and administration phases of the project.
3. The Purchasing Agent will present the contractor's performance bond and payment bond to the Commissioners Court for approval within thirty (30) days of award and before the Notice-to-Proceed.
4. The Purchasing Agent will be responsible for monitoring the continued insurance coverage and obtaining updated certificates on a timely basis.
5. Receive and review a copy of the contractor's program schedule, ensuring that it is submitted within the period as specified in the contract specifications.
6. Ensure contractor submittals are provided to the County as prescribed by the submittal schedule established during the pre-construction conference.
7. Receive and review copies of contractor payrolls to ensure payments made to contractor employees are in accordance with the prevailing wage rate classification by trade included in the contract.

8. Perform periodic site visits to the construction site to perform spot labor interviews to ensure contractor compliance with prevailing labor laws.
9. Periodically review copies of contractor invoices for accuracy. Invoices are to be verified against progress reports, when applicable, with any discrepancies being reported to the contractor and user department for resolution. The user department will provide Purchasing with a copy of the invoice immediately upon receipt from the contractor.
10. Correspondence: Discussions that merely explain the interpretation of specifications may be dealt with orally by the user department. All correspondence concerning major issues involving noncompliance, between the contractor and the County, should be directed to the Purchasing Department. This will ensure that Purchasing is aware of any directives being issued to the contractor or any potential problems that may occur about contract performance.

In emergency situations, correspondence regarding minor issues may be issued directly to the contractor by the user department. However, Purchasing should be provided with a copy immediately. It will be left to the professional judgment of the user department representative as to what constitutes an emergency and what is considered to be a minor issue. If it appears that the level of noncompliance should result in a suspension or termination of the contract, the Purchasing Agent must seek the advice of the Criminal District Attorney's Office before sending a notice to show cause not to terminate or placing the contract on the agenda for the Commissioners Court to authorize termination.

11. Purchasing will be responsible for monitoring all insurance and bond certificates. Bid bonds will be provided with all bids over \$50,000 and will be maintained in the Purchasing Department safe. Bid bonds will be returned to all bidders within five (5) business days after contract award. Payment and performance bonds will be provided by the contractor within ten (10) business days after receipt of the Notice-of-Award letter. They should be reviewed by both the user department representative and Purchasing with the originals being maintained in the Purchasing Department safe. Copies can be provided to the user department upon request. Insurance certificates are to be provided by the contractor during the preconstruction conference. These certificates will be kept in the Purchasing Department main contract file.

#### **14.26 Change Orders:**

- A. The Purchasing Agent on the recommendation of the Facilities Management Director is responsible for all construction related projects and may approve cChange oOrders to construction contracts for the following reasons:
  1. To allow for an additional service request in an amount ~~not to exceed less~~ than \$50,000, subject to limitations stated in Texas Local Government Code, 271.060(~~h~~), if the Auditor and Budget Office verify that the funds are

available for the change order and it does not change the scope of the contract.

2. To allow for a contract time extension if the change order does not change the scope of the contract.

**Both 1 and 2 above will be submitted by the Facilities Management Department for receive and file.**

- B. Any change orders that increase the cost or change the scope of the contract **that are not related to 14.26.A** must be approved by the Commissioners Court. –The Facilities Management Department will submit the agenda request to the Commissioners Court for approval.
- C. Negotiations of change orders, particularly those that result in an increase in contract price or performance period, or change the scope of the project, will require that Purchasing be notified on a timely basis so the appropriate action can be taken. Purchasing shall always be provided with a copy of the proposed change order, with all available supporting documentation.
- D. No change order will be issued until it is determined that the necessary funds are budgeted and available, and the appropriate backup documentation has been reviewed.
- E. A record of any change order negotiations shall be made by the user department, with a copy sent to Purchasing.

#### **14.27 Closeout Procedures**

The Purchasing Department will ensure that all applicable warranty certificates are received and safeguarded throughout the warranty term. The Purchasing Department will provide copies of the warranty certificates to the appropriate departments.

Return of bonds will be administered by the Purchasing Department in cooperation with the user department to ensure that the contract is complete in all respects before these are returned.



## TAKINGS IMPACT ASSESSMENT CHECKLIST

Complete this form for any county action that involves the adoption of a regulation, policy, guideline, court resolution, or order.

Project/Regulation Name: Consideration of Tarrant County Purchasing Policies and Procedures Manual Revisions - Amendment of Sections 2 and 14

County Department: PURCHASING

Contact Person: Melissa Lee, C.P.M., A.P.P.

Phone Number for Contact Person: (817) 884-3245

Type of TIA Performed: SHORT TIA or FULL TIA. Circle one after answering the questions in Sections II and III below.

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### I. Stated Purpose

Attach to this checklist an explanation of the purpose of the regulation, policy, guideline, court resolution, or order.

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**Note: The remainder of this Takings Impact Assessment Checklist should be completed in consultation with the Criminal District Attorney's Office.**

### II. Potential Effect on Private Real Property

1. Does the county action require a physical invasion, occupation, or dedication of real property?

Yes \_\_\_\_\_ No √

2. Does the county action limit or restrict a real property right, even partially, or temporarily?

Yes \_\_\_\_\_ No √

If you answered yes to either question, go to Section III. If you answered no to both, STOP HERE and circle SHORT TIA at the top of the form.

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