

# **CITY OF KENNEDALE**



## **PURCHASING POLICY**

**ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 13, 2008**

## **PREFACE**

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Kennedale. In addition to several administrative updates, which further establish standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program, Staff incorporated a major revision due to a change in statute. Specifically, the expenditure threshold increased from \$25,000 to \$50,000 in reference to competitive bidding and proposal requirements per Senate Bill 1765.

This policy was formally adopted by the Council on November 13, 2008. However, prior to this date, it was created on May 16, 2005 and reviewed administratively.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

## **SUBSEQUENT REVIEW & ADOPTION**

NOVEMBER 5, 2009  
NOVEMBER 17, 2011  
OCTOBER 3, 2012  
OCTOBER 1, 2013  
OCTOBER 13, 2014  
OCTOBER 19, 2015  
OCTOBER 17, 2016  
MARCH 5, 2018  
OCTOBER 16, 2018  
OCTOBER 15, 2019

## I. PURPOSE

The purpose of this policy is to establish standard practices and procedures to create a uniformity, economy, efficient and effective purchasing program for the City of Kennedale.

## II. POLICY

It is the policy of the City of Kennedale to authorize purchases at time and place needed in the proper quantity and of the proper quality, all goods and services required for City operations. Goods and services shall be procured at the lowest possible cost consistent with prevailing economic conditions while establishing and maintaining a reputation for fairness and integrity, with the express intent to promote open and fair conduct in all aspects of the purchasing process.

## III. GOVERNING AUTHORITY

The primary governing authority for the City of Kennedale's Purchasing Policy shall be the City's Charter, in conjunction with Chapter 252 of the Local Government Code: Purchasing and Contracting Authority of Municipalities. All procurement activity shall be governed in accordance with applicable federal, state, and local statutes, ordinances, and codes.

## IV. CODE OF ETHICS

Every time items are purchased, city funds are committed. Therefore, this is a responsibility that should not be taken lightly. By participating in the purchasing process, employees of the City of Kennedale agree to:

- A. Make purchases in the conduct of the City's business only. **To acquire or purchase goods and services for other than official use of the City is fraudulent use and may subject the employee to disciplinary action, up to and including dismissal as specified in the City's Personnel Policy and/or criminal prosecution.**
- B. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- C. Demonstrate loyalty to the City of Kennedale by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- D. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Kennedale.
- E. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.

- F. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of Governmental duties.
- G. Engage in no business with the City of Kennedale, directly or indirectly, which is inconsistent with the conscientious performance of Governmental duties.
- H. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- I. Never use any information gained confidentially in the performance of Governmental duties as a means of making private profit.
- J. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- K. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- L. Expose corruption and fraud wherever discovered.
- M. Uphold these principles, ever conscious that public office is a public trust.

**V. FUND AVAILABILITY & PAYMENT AUTHORIZATION**

- A. Verification of fund availability is the responsibility of the User Department.
- B. Finance Department shall verify available funds through the City's financial reporting system during requisition entry. If funds are not available at the time, no purchase will be made until funds are made available with approval from City Manager.
- C. At a minimum, payment approval is required from Department Head to pay for **all** products and/or services.
- D. As a tax-exempt government agency, the City of Kennedale does **not** pay sales tax on applicable items. The cardholders can request a copy of the City's tax exemption certificate from Accounts Payable City's. Furthermore, a sales tax identification number is provided on the face of the City's Procurement Card should it be utilized. Employees are responsible for ensuring that the vendor does not include sales tax in the transaction, unless an item is subject to sales tax. **If tax is included in error, the employee may be responsible for reimbursing the tax to the City if it is not recovered**

**from the vendor.** Contact Accounts Payable for questions in regards to which purchases are subject to tax.

- E. Approved invoices are forwarded directly to the Finance Department with the appropriate supporting documentation and signatures. **If an employee misplaces or loses a receipt or is unable to provide adequate details concerning a purchase, a *Missing Or Lost Receipt Form* must accompany the employer's request for payment. Recurring instances of misplaced or lost receipts may result in the revocation of employee purchasing privileges. Furthermore, the employee will be responsible for reimbursing the City of Kennedale for all applicable charges, and the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.**
- F. Payments for goods and services must be paid **no later than 30 days after the later of:**
  - 1) Receipt of goods/services OR receipt of the invoice for the goods/services.
  - 2) Goods/services will be considered received when they have been accepted as usable by the User Department.

## VI. LEGAL REQUIREMENTS

- A. *Texas Local Government Code, Subchapter B, Section 252.021* defines the requirements for competitive bids. Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval. Intentionally splitting purchases to circumvent the competitive bid process (i.e. two or more purchases made to keep the amount under \$50,000) will result in disciplinary action.
- B. Likewise, intentionally splitting purchases to circumvent the three (3) quote requirement process (i.e. two or more purchases made to keep the amount under \$3,000.01) will result in disciplinary action.
- C. Purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements, as well the City of Kennedale's requirement for any quote process. Cooperative purchasing occurs when **two or more** governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.
- D. Any exemption per *Section 252.022, General Exemption of Texas Local Government Code* will need the approval from City Manager. The Department Head will need to include a written explanation, as well as copies of all the quotes for City Manager review. Upon

approval from City Manager, attach written explanation and all documentation and send to Finance Department for payment.

## VII. QUOTES

- A. Purchases of non-contract goods or services totaling **\$3000 or less require no quotation**. In such instances, departments should make every effort to use the City's procurement card.
- B. Except where otherwise exempted by applicable State law, purchases totaling **\$3,000.01 to \$49,999.99 require a minimum of three (3) quotes**. All quotations received must be in writing from the vendor and will be evaluated by the Department Head who will then authorize the purchase.
  - 1) Chapter 252.0215 of the Local Government Code: Competitive Bidding in Relation to Historically Underutilized Business (HUB) Vendors, states that a municipality, in making an expenditure of **more than \$3,000 but less than \$50,000**, shall contact **at least two HUBs** on a rotating basis. If the list fails to identify a disadvantaged business in the county in which the City is situated, the City is exempt from this section.
  - 2) Historically Underutilized Business (HUB) are defined as any business determined by the State of Texas to be a disadvantaged (minority/woman owned) vendor.
  - 3) Refer to Appendix B for specific instructions on how to conduct a HUB search.

## VIII. SEALED COMPETITIVE PROCESS

Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is **\$50,000 or more** must be processed as competitive solicitations (e.g. sealed bids, request for proposals).

- 1) With the approval from the City Manager to begin the competitive process, the User Department shall prepare a bid package with specifications and any other pertinent information. Along with the specifications and other information, the Department may submit suggested vendors for the item(s) requested.
- 2) A notice will be published in Kennedale's official newspaper to indicate the City's intent to accept bids in accordance with State law. **Bids must be advertised for two (2) consecutive weeks with the first publication at least 14 days prior to the bid opening date.**
- 3) Vendor pre-bid conferences may be conducted if, in the opinion of requesting Department, further explanation or coordination is needed due to the nature of the bid.

- 4) The City Secretary or designee shall publicly open the bids received and read them aloud at a designated time and as indicated in the bid packet. The City Secretary or designee will indicate to those present when the Council will most likely address this item and will make available to those present the names of the vendors and the amount of their respective bids. In the case of an RFP, only the submitter's names will be announced. A tabulation will then be created. A representative from the User Department should be present during bid openings.

## **IX. AWARD OF CONTRACT**

The City of Kennedale shall award contracts based on criteria deemed in the best interest of the City. The Texas Local Government Code, Section 252.043, states, in part:

- 1) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.
- 2) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

## **X. RECIPROCITY**

The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states, unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

## **XI. DISCLOSURE OF INFORMATION**

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and applicable City policies implementing this chapter. The Texas Local Government Code Chapter 252.049(b) states, in part:

- A. If provided in a Request For Proposal (RFP), proposals shall be opened in a manner that avoids disclosure of the contents to competing offers and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

## **XII. AUTOMATED INFORMATION TECHNOLOGY PURCHASES**

Departments may contact the Finance Department for all technology procurements, so that it can coordinate with Information Technology to ensure that the appropriate solicitation procedure is used and product is sought. Automated information technology purchases include:

- A. The computers on which the information system is automated;
- B. A service related to the automation of the system, including computer software, or the computer; and
- C. A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network.

## **XIII. PROFESSIONAL SERVICES (EXEMPT FROM SEALED COMPETITIVE PROCESS)**

Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Finance Department is available to consult with departments regarding the preparation of information; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

- A. Texas Government Code, Chapter 2254, Subchapter A, Professional Services, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:
  - 1) Of demonstrated competence and qualifications to perform the services;
  - 2) For a fair and reasonable price;
  - 3) Fees are allowed;
  - 4) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
  - 5) May not exceed any maximum provided by law.
- B. Professional Services, for the purposes of Government Code Chapter 2254, are defined as those “services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry,

professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.”

**XIV. SOLE SOURCE PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)**

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code. When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a written justification must be provided to the Finance Department upon purchase. The legislature exempted certain items from sealed bidding in the Vernon's Texas Codes Annotated - Local Government Code Section 252.022 (a) 7, in part:

- A. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- B. films, manuscripts, or books;
- C. gas, water and other utility services;
- D. capital replacement parts or components for equipment;
- E. books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and
- F. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

**XV. EMERGENCY PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)**

Valid emergencies are those that occur as a result of the breakdown of equipment, which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Finance Department to conduct the procurement of supplies and services. The Legislature exempted certain items from the competitive sealed process in the Texas Local Government Code Section 252.022(a), including, but not limited to:

- A. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

- B. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- C. A procurement necessary.

**XVI. INELIGIBLE VENDORS**

- A. An ineligible vendor shall not be allowed to conduct business until:
  - 1) Financial arrears are paid in full.
  - 2) Inappropriate practices are corrected.
  - 3) Vendors have satisfied any and all penalties imposed by the City.
  - 4) If applicable, a listing of ineligible vendors will be developed and distributed annually by the Finance Department to all other departments, unless a greater frequency is determined by the Director of Finance.
  - 5) At the recommendation of a User Department, the Finance Department may declare a vendor ineligible if it has failed to comply with the terms of a previous award, specifications of a bid or conducted inappropriate business practices.
  - 6) The penalty imposed may be for a period of up to twelve (12) months during which time bids submitted by such vendor shall not be considered.
  - 7) A penalty greater than twelve (12) months due to the severity of the infraction requires the approval of the City Manager or designee.
- B. The City of Kennedale reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.

**XVII. AUDIT OF DEPARTMENTAL RECORDS**

The Finance Department may audit User Department purchasing files to ensure compliance with the procedures described herein.

**XVIII. ANNUAL REVIEW**

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

**APPENDIX A**

CITY OF KENNEDALE, TEXAS  
PURCHASING MATRIX

<b>PURCHASE</b>	<b>\$0 - \$3,000.00</b>	<b>\$3,000.01 - \$49,999.99</b>	<b>\$50,000 &amp; Above</b>
<b>SIGNATURES REQUIRED</b>	<ul style="list-style-type: none"> <li>▪ Department Head</li> </ul>	<ul style="list-style-type: none"> <li>▪ Department Head</li> <li>▪ City Manager</li> </ul>	<ul style="list-style-type: none"> <li>▪ City Manager</li> <li>▪ City Council</li> </ul>
<b>PURCHASE ORDER</b>	<ul style="list-style-type: none"> <li>▪ Not Required</li> <li>▪ Only If Vendor Needs</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not Required</li> <li>▪ Only If Vendor Needs</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not Required</li> <li>▪ Only If Vendor Needs</li> </ul>
<b>LEGAL REQUIREMENT</b>	<ul style="list-style-type: none"> <li>▪ N/A</li> </ul>	<ul style="list-style-type: none"> <li>▪ Three (3) Quotes</li> <li>▪ Two (2) Of Three (3) Quotes Must Be HUB Vendors In Tarrant County</li> <li>▪ If HUB(s) not listed, City Is Exempt</li> </ul>	<ul style="list-style-type: none"> <li>▪ Competitive Bid Or</li> <li>▪ Competitive Proposal</li> </ul>
<b>EXEMPT FROM LEGAL REQUIREMENT</b>	<ul style="list-style-type: none"> <li>▪ N/A</li> </ul>	<ul style="list-style-type: none"> <li>▪ Cooperative Programs Purchases</li> <li>▪ Sole Source Purchases</li> <li>▪ Emergency Purchases</li> <li>▪ Professional Service Purchase</li> </ul>	<ul style="list-style-type: none"> <li>▪ Cooperative Programs Purchases</li> <li>▪ Sole Source Purchases</li> <li>▪ Emergency Purchases</li> <li>▪ Professional Service Purchase - <b>MUST USE REQUEST FOR QUALIFICATIONS PROCESS. REFER TO SECTION XIII.</b></li> </ul>
<b>MINIMUM PAYMENT DOCUMENT(S)</b>	<ul style="list-style-type: none"> <li>▪ Pay Request</li> <li>▪ Invoice (Not Quote)</li> <li>▪ Applicable Receipts</li> <li>▪ Backup Documents</li> </ul>	<ul style="list-style-type: none"> <li>▪ Pay Request</li> <li>▪ Invoice (Not Quote)</li> <li>▪ Applicable Receipts</li> <li>▪ Backup Documents</li> </ul>	<ul style="list-style-type: none"> <li>▪ Pay Request</li> <li>▪ Invoice (Not Quote)</li> <li>▪ Applicable Receipts</li> <li>▪ Backup Documents</li> </ul>
<b>PAYMENT TERMS</b>	<ul style="list-style-type: none"> <li>▪ TX Prompt Payment Act (No Later 30 Days)</li> </ul>	<ul style="list-style-type: none"> <li>▪ TX Prompt Payment Act (No Later 30 Days)</li> </ul>	<ul style="list-style-type: none"> <li>▪ TX Prompt Payment Act (No Later 30 Days)</li> </ul>

**Cooperative Programs (Approved Annually As Of 10/03/12):** US General Services Administration (GSA), Department of Information Resources (DIR), Texas Building and Procurement Commission (TBPC), Texas Multiple Award Schedules (TXMAS), Texas Procurement and Support Services (TPASS), City of Fort Worth Cooperative Purchasing Program, Parker County Cooperative Purchasing Program, Tarrant County Cooperative Purchasing Program, Texas Interlocal Purchasing System (TIPS), Houston-Galveston Area Council (H-GAC), Local Government Purchasing Cooperative (BuyBoard), The Cooperative Purchasing Network (TCPN), US Communities and Western States Contracting Alliance.

## APPENDIX B

### CITY OF KENNEDALE, TEXAS HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PROCEDURES

Excerpts from the Texas Local Government Code, Chapter 252, Subchapter B:

- A. Section 252.0215, “ A municipality, in making an expenditure of **more than \$3,000 but less than \$50,000**, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.”
- B. Centralized Master Bidders List & Historically Underutilized Business (HUB) Search
  - 1) Go to <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>
  - 2) Click “HUBS on CMBL.”
  - 3) Enter “Class Code, Item Code, District” if available. Description of each is provided by clicking on link directly below.
  - 4) Select “Tarrant” on Texas County dropdown list.
  - 5) Click “Submit Search.”
  - 6) Select appropriate Output Fields on “Select Fields For Detail List” page.
  - 7) Click “Go.”
  - 8) Results will appear.