

CHAPTER 1 - Policy

Policy

It is the policy of the Town to conduct procurement functions efficiently, effectively, and in full compliance with all federal and state laws, Town Charter, and Town administration policy and procedures. The Town Council's authority to contract for all goods and services and make all sales is delegated to the Town Manager as set forth in this policy and to those employees to whom the Town Manager delegates that responsibility. The Purchasing Manager has been delegated by the Town Manager to contract for the Town in accordance with this policy.

Unauthorized personnel who attempt to contract in the name of the Town, or personnel making unauthorized purchases outside of the scope of this policy, may be subject to disciplinary action, legal action, and personal financial liability.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by law, that person may be convicted of a Class B misdemeanor. This includes a situation in which a person knowingly makes or authorizes separate, sequential, or component purchases in an attempt to avoid competitive bidding requirements.

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CHAPTER 2 – Responsibility, Authority, & Enforcement

This chapter covers the responsibility delegated to various staff, their respective approval authority, and enforcement.

Town Council

Pursuant to state law, Town Council issues the following policy statements:

1. Best Alternative Delivery Method – The Town Manager is authorized by Town Council to select the best alternative project delivery method as defined by state law.
2. Competitive Sealed Bidding or Proposals – The Town Manager, or his designee is authorized by Town Council to select a procurement method of either competitive sealed bidding or competitive sealed proposals for the procurement of goods and services as defined by State law for purchases that exceed \$50,000 or as may be amended in the future.
3. Electronic Bids & Proposals – As defined in Town Resolution 10211402, and pursuant to Texas Local Government Code Section 252.0415 “Procedures for Electronic Bids or Proposals,” the Town of Little Elm has adopted the following rules to ensure the identification, security, and confidentiality of electronic bids or proposals, and that the electronic bids or proposals remain effectively unopened until the proper time:
 - a. Users of the system shall be assigned unique user names and passwords.
 - b. Access to the system by authorized users shall be logged and tracked in order to record when any user has accessed the system, and what data the user has accessed.
 - c. Transmittal of data through the internet shall be encrypted using SSL technology. All sensitive data within the system shall be encrypted using the Advanced Encryption Standard algorithm (AES), or better.
 - d. All data shall be encrypted using a time-sensitive mechanism that allows the data to be decrypted only after the due date and time.
 - e. The system shall be synchronized to two or more atomic clocks to ensure exact recording of the due date and time, and the receipt date and time, of each submission.
 - f. Neither vendor identities nor the contents of submissions are available during the bidding process.
 - g. Only the Town’s Purchasing Manager or designee, with an authorized password, and only at the established due date and time, can request that the bid/proposal be opened.
 - h. The Town will determine when and what information is released to the public pursuant to Texas Law.

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- B. Rejection of Bids – Although full compliance to specifications may have been met, all bids, quotations or proposals may be rejected prior to award if it is determined to be in the best interest of the Town. The Town Manager, or his designee, is authorized by Town Council to reject bids or proposals that are not in the best interest of the Town.

- C. Exceptions from Council Approval – Items within the dollar amount previously approved by the Town Council require no further Town Council action when being purchased through or as:
 - 1. an Interlocal Agreement,
 - 2. a Cooperative Program,
 - 3. a regional Council of Government (COG) Program,
 - 4. a sole source as defined under State bidding laws,
 - 5. maintenance agreements for existing software or hardware, or
 - 6. utilities.

- D. Change Orders – The Town Manager, or his designee, is authorized by Town Council to approve change orders up to the dollar amount limit, as defined by state law or as may be amended in the future.

Town Manager

The Town Manager establishes the rules and regulations for the purchase of all goods and services by means of this policy. The Town Manager has delegated to the Purchasing Manager the authority to procure all goods and services and to dispose of all salvage/surplus and seized property for any department and shall administer the purchasing rules and regulations as established by all federal law, state law, and Town charter and ordinance provisions.

The Town Manager is responsible for ensuring compliance by all departments with the policies and procedures outlined in this policy and to promote and protect governmental purchasing integrity

Delegated Authority:

- 1. Purchases less than \$50,000.
- 2. Change Orders less than \$50,000.
- 3. Items not budgeted, subject to Town Council Budget Amendment Approval.
- 4. Approval of all procurement documents needing Council action.
- 5. Execute all contracts/agreements as approved and authorized by Town Council.
 - a. Agreements/contracts obligating Town funds will be signed by the Town Manager, Purchasing Manager, or Chief Financial Officer. No other employees have been designated or granted the authority to bind the Town.

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Purchasing Manager

The Purchasing Manager performs or oversees compliance with all procurement requirements for goods and services as prescribed in this policy. The Purchasing Manager ensures all procurement activities are conducted with the highest level of ethical standards, provide suppliers a fair opportunity to compete for Town business and protect public funds.

1. Solicitations \$50,000 or greater will be managed through the Purchasing division in collaboration with the responsible department.
2. Determine which method of procurement provides best value for the Town.
3. Approval of required rating for bonds and insurance.
4. Determine and implement the most appropriate method of disposal of salvage/surplus and seized property in accordance with applicable laws.
5. Collaborate with departments on:
 - a. Solicitation documents and methods ensuring competition.
 - b. Facilitating evaluation and recommendations for award.
 - c. Concurrence with Town Council recommendations.
 - d. Maintenance of vendor list.
6. Review and question requisition/solicitation documents.
7. Update all procurement forms, templates, policies, and procedures and ensure compliance.
8. Purchasing may consult with the Town Attorney for review of all procurement related issues.

Delegated Authority:

1. Execute all Purchase Orders as have been approved by the Town Council, Town Manager and/or other appropriate staff.
2. Execute all Interlocal or Cooperative Purchasing Agreements, as appropriate.
3. Purchase budgeted goods or services from a cooperative or off another entities competitively bid contract, as have been approved by the Town Council, Town Manager, and/or other appropriate staff.
4. Execute purchases and change orders up to \$50,000.
5. Execute contracts and change orders as have been approved by the Town Council and/or the Town Manager.
6. Determine which method of procurement provides the best value for the Town and make recommendation to the Town Manager and/or the Town Council, as appropriate.
7. Reject any and all bids, in concurrence with requesting department, when in the best interest of the Town, and make recommendation to the Town Manager and/or Town Council, as appropriate.

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Directors

Directors are responsible for planning purchase requirements in order to allow sufficient time to obtain bids or proposals, to ensure policy compliance within their department, and to promote conduct that fosters public confidence in the integrity of the Town by:

1. Ensuring adequate funds are appropriated. If appropriations are exceeded a budget transfer request must be submitted to the CFO in the Finance office before the expenditure is committed to the vendor. Expenditures not included in the budget must have approval of the Town Manager and Chief Financial Officer before quotes are obtained and Purchase Order commitment.
 - a. Evidence of the approval shall be in the form of either:
 - i. A memo or email issued by the Town Manager, or
 - ii. Approval of a memo or email to the Town Manager requesting approval of the expenditure.
2. Manage, review, and approve department PCard use for purchases under \$3,000.
3. Utilize the Purchasing for purchases between \$3,000 and \$50,000 when possible.
 - a. Exception: goods or services requiring vendor insurance/indemnification or a pre-bid conference will be managed and solicited by the Purchasing Manager.
4. Ensuring Historically Underutilized Business (HUB) participation in accordance with the provisions of Texas Local Government Code Chapter 252.
5. Provide specifications for goods or services requested to Purchasing and vendor sources when possible (name & email).
6. Delegate authority as appropriate to prepare requisitions and specifications.
7. Guard against misappropriation of Town funds by safeguarding public funds and ensure fair, open, and transparent purchasing processes by providing equal opportunities to all vendors.

Directors are responsible for notifying Purchasing of:

1. Names of all departmental individuals authorized to approve requisitions and purchase orders and to ensure the approval process is maintained within the electronic system.
2. Any changes in delegation of such authority.

Permanent authorization will remain in effect until written notification of a change is received by Purchasing.

Department Staff

Delegated individuals within a department who have been properly trained to prepare and issue requisitions, specifications, solicitations, and manage PCard reconciliation in accordance with this policy.

1. Provide complete documentation of any vendor’s failure to perform as contracted.
2. Maintain records per retention schedule.

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Procedures

The Chief Finance Officer and Purchasing Manager is responsible for ensuring the proper expenditures of funds, both budgeted and unbudgeted, and verifying the availability of funds for Town Council recommendations and awards before being placed on the Town Council Agenda.

Approval Authority

The following approval levels shall be utilized in all procurement related matters.

1. All procurement card (PCard) transactions must be approved by the respective department Director.
2. All other Procurement Related Expenses are approved as follows:

Amount	Approval Requirements				
\$0 - \$999	Designated Staff				
\$1,000 - \$2,999	Designated Staff	Purchasing			
\$3,000-\$9,999	Designated Staff	Director	Purchasing		
\$10,000-\$49,999	Designated Staff	Director	CFO	Purchasing	
\$50,000 +	Designated Staff	Director	CFO	Town Council	Purchasing

Separate, Sequential, and Component Purchases, as defined in Appendix B, are prohibited.

Purchases less than \$1000

Do not require a purchase order or quotations. These purchases may be placed on a P-card, or processed by forwarding an official invoice with check request to Accounts Payable.

Purchases \$1,000- \$2999.99

The user department must obtain at least one quote. Purchases may be placed on p-card or purchase order by entering a requisition for processing by Purchasing. Once the purchase order is issued, the user department may place the order.

Purchases \$3000 to the State Expenditure Limit

The user department must obtain a minimum of three written quotes, and two must be from HUB vendors (when possible) as required by State Law. This information shall be submitted with the requisition to Purchasing for review and processing. The Purchasing Division shall select the vendor based upon the lowest overall price meeting specification(s) or best value, and issue the purchase order. Once the purchase order is issued, the user department may place the order.

Purchases above the State Expenditure Limit

Require the Purchasing Division to make the desired purchase.

The Purchasing Division, with the aid of the User Department, shall develop a bid or proposal package, if applicable, and distribute invitations to suppliers that may provide the products or services being bid or proposed and will publicly advertise the Town’s intent to accept bids or proposals in accordance with State law. The Purchasing Division will also distribute and post the bid or proposal through the online Procurement software.

Pre-Bid or Pre-Proposal conferences may be conducted if, in the opinion of the Purchasing Manager, further explanation or coordination is needed due to the nature of the solicitation.

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The Purchasing Division shall open bids or proposals at a designated time and place as indicated in the advertisement.

The Purchasing Division shall develop a bid or proposal tabulation and distribute, along with copies of the supplier bid documents, to the user department.

The User Department shall review all documents and provide a written award recommendation to the Purchasing Division.

The Purchasing Division shall review and evaluate all documents, including departmental recommendations, to ensure total compliance with all Town policies and State laws.

The Purchasing Division or User Department shall prepare an agenda package for Council approval prior to award. If an agenda package is prepared by the User Department, a copy should be routed to the Purchasing Division with sufficient time so that it may be reviewed for approval prior to placing on the agenda.

Once approved by Council, the user department shall enter a requisition for the purchase, and the Purchasing Division will issue a Purchase Order. Once the purchase Order is issued, the User Department shall forward to the awarded supplier.

Exceptions

A Purchase Order is required for all expenditures exceeding \$1,000. The following are examples of exemptions to this statement:

1. Purchases made on a PCard
2. Refunds, cash or developer escrow repayments, and cash bonds
3. TMRS and insurance premiums and claims payments
4. Auction commission payments, United Way pass through payments
5. Postage and advertisement of legal notices
6. Certain medical payments including physicians, nurses, drug testing
7. Utilities
8. Real estate and rights-of-ways
9. Arbitrage
10. Expenditures for services in which a scope of work has been defined and specific rates are known at the time of engagement; but the extent of the engagement is not known; for example, the hiring of an attorney or legal counsel

Additional exemptions may be approved by the Purchasing Manager. The approval must be obtained prior to the order being placed.

Types of Solicitation Methods

Following are the types of solicitations or requests for pricing. The Purchasing Manager will determine the best method for each purchase in order to achieve best value for the Town.

- Quote - Request for Quote
- Invitation for Bid (IFB) – also known as Invitation to Bid (ITB), Competitive Sealed Bid (CSB)
- Request for Proposal (RFP) – also known as Competitive Sealed Proposal (CSP)
- Request for Information (RFI)
- Request for Qualifications (RFQ) – also known as Request for Statements of Qualification

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Enforcement

It shall be the responsibility of the Purchasing Manager to enforce all purchasing procedures.

- A. A violation is defined as an employee’s action or omission that indicates an intentional or reckless disregard for purchasing laws, policy, or procedures. A violation also may be noted if the employee’s action was unintentional but violates federal law, state law, Town charter, ordinance, policies, or procedures.
- B. Violation of purchasing procedures will be noted to the appropriate Director in writing from the Purchasing Manager through a Statement of Non-Compliance form.
- C. Repetitive violations of purchasing procedures by one department or individual will be communicated to the Town Manager in a memorandum from the Purchasing Manager.
- D. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

Personal Use Prohibitions and Permissions

- A. If an employee acquires merchandise or services for the employee’s personal use from a vendor doing business with the Town, such merchandise or services may not be delivered to the employee or another Town employee unless the acquisition is paid directly to the vendor by the employee. No personal invoices are to be mailed to an employee (or another Town employee for or on behalf of the employee) at the employee’s (or other employee’s) place of work. Employee is responsible for payment of applicable sales tax.
- B. Employees may purchase merchandise or services from a vendor doing business with the Town provided that the price at which the item is purchased is the same price charged to all officers and employees of the Town. Employees cannot use the Town’s business accounts for personal purchases. Employees that are involved in contract negotiations should not purchase merchandise or services for personal use with a vendor that is currently working, seeks to work, or has worked for the Town.
- C. Employees shall not use the Town of Little Elm tax exemption forms for personal use.

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CHAPTER 3 – Statute

The Procurement policy is based on Texas statutory provisions as found in the Texas Government Code, Texas Local Government Code, Texas Insurance Code, and Texas Labor Code, as amended. Although all such provisions apply to the policies and procedures set forth in this policy, selected statutes are provided herein for guidance, as follows:

Definitions, Texas Local Government Code, §252.001

1. **Component Purchases** – purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
2. **High Technology Procurement** – the procurement of equipment, goods, or services of a highly technical nature, including:
 - a. data processing equipment and software and firmware used in conjunction with data processing equipment;
 - b. telecommunications equipment and radio and microwave systems;
 - c. electronic distributed control systems, including building energy management systems; and
 - d. technical services related to those items.
3. **Separate Purchases** – purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
4. **Sequential Purchases** – purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Quotes/bids threshold, Texas Local Government Code, §252.021

Expenditures of more than \$3,000, but less than \$50,000, require the buyer to obtain a minimum of three quotes. Two of the quotes must be from Historically Underutilized Businesses (HUB).

The Town must competitively bid or accept sealed proposals for any goods/services over \$50,000.

Payments, Texas Government Code, §2251.021 through 2251.030

A payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the **31st day after the later of:**

- a. the date the governmental entity receives the goods under the contract; or
- b. the date the performance of the service under the contract is completed; or
- c. the date the governmental entity receives an invoice for the goods or service.

If goods or services are incomplete Town staff must document any issues/shortages and notify the vendor in writing. All deliveries should be verified upon receipt. **Payments are not made until goods and services are accepted.**

Interest on overdue payments accrues at the interest rate established by law.

Departments are encouraged to take advantage of prompt or early payment discounts.

Payments will only be made to vendors that have a valid purchase order or through use of a procurement card (PCard). Payments made via PCard shall be initiated prior to placement of an order.

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CHAPTER 3 – Statute

Vendors / Contractors must pay subcontractor or supplier who supplies goods/services for which payment is made within ten (10) days after receipt of payment from the Town.

Criminal penalties, Texas Local Government Code, §252.062

- a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.
- b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.
- c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described in Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Removal / Ineligibility, Texas Local Government Code, §252.063

- a) The final conviction of a municipal officer or employee for an offense under Section 252.062 (a) or (b) results in the immediate removal from office or employment of that person.
- b) For four years after that date of the final conviction, the removed officer or employee is ineligible:
 - 1. to be a candidate for or to be appointed or elected to a public office in this state;
 - 2. to be employed by the municipality with which the person served when the offense occurred; and
 - 3. to receive any compensation through a contract with that municipality.

Insurance requirements, Texas Labor Code, §406.096

All contractors and subcontractors shall have insurance coverage including worker’s compensation. Proof of coverage must be provided prior to any work beginning. *Certificates must be submitted to Purchasing.*

Minimum Required Insurance: Workers Compensation, General Liability, and Auto Liability.

Other types of insurance may be required depending on the type of work or service requested.

"Building or construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance; or
- (B) remodeling, extending, repairing, or demolishing a structure; or
- (C) otherwise improving real property or an appurtenance to real property through similar activities.

Public records

Vendors or a member of the public may request a copy of a Bid Tabulation that is compiled when bids are opened in accordance with Chapter 552 of the Texas Government Code.

The Town will not release copies of bids or the bid evaluations until after the contract has been awarded in accordance with §552.104 of the Texas Government Code. This is not a waiver of any exception to the requirements of public disclosure contained in the Texas Public Information Act including, but not limited to, trade secrets or other commercial or financial information that is made confidential by law.

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CHAPTER 4 - Ethics

Procurement Code of Ethics

A special responsibility is imposed on all Town of Little Elm employees entrusted with the allocation of Town funds. In government procurement, employees are held to the highest degree of integrity, to secure best economic results, and to comply with the procurement process.

It is critical that employees involved in procurement and procurement-related functions remain independent, free of obligation or suspicion, and completely fair and impartial. Credibility and public confidence are vital. A shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following procedures are set forth. Every person employed by the Town of Little Elm and performing public purchasing and purchasing-related functions shall abide by this code of ethics.

Perception

- Avoid the intent and/or appearance of unethical or compromising practice in relationships, actions, and communications. If a situation is perceived as real, then it is in fact real in its consequences.
- Avoid business relationships with personal friends and relatives. Request a reassignment of responsibility if the situation occurs.
- Avoid noticeable displays of affection, which may give an impression of impropriety.
- Avoid holding business meetings with suppliers outside the office. If such a meeting is necessary, carefully choose the location so there will be no perception by others in the business community or your peers of impropriety.

Responsibility to Your Employer

- Demonstrate loyalty to the Town of Little Elm by adhering to lawful instructions, using reasonable care, and only granted authority.
- Follow the letter and spirit of all laws, policies, and procedures. Interpretation of the law should be left to legal counsel.
- Understand the authority granted by the Town of Little Elm.

Conflict of Interest

- Refrain from conducting any private business or professional activity that would result in a conflict of interest between the employee and employer.

No employee of the Town may:

- Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale, or service to, for, with, or by the Town. The Town Manager may, at his discretion, waive this requirement.
- Use Town employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- Have a financial interest, directly or indirectly, in the sale to the Town of any materials, supplies, or services.

Have discussions or participate in discussions of any Town agency, board, commission or instrumentality if the employee has a personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision, except as noted below (see Town Human Resources Manual);

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- Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a Town employee or that might impair independent judgment in the performance of duties to the Town; or
- Accept monetary payment or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the Town.

Violations of this policy may result in disciplinary action up to and including termination of employment and may void any resulting contract.

Town employees and officials must become familiar with the requirements in Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers; and Texas Local Government Code Chapter 171, Regulation of Conflicts of Interest of Officers of Municipalities; and the penalties provided therein.

Gratuities (Gifts and Entertainment)

Employees of the Town must:

- Refrain from soliciting and/or accepting gifts of any kind from vendors, actual or potential;
- Never provide special favors or privileges to anyone, either as payment or under any other circumstance;
- Never accept for self, friends, or family any favors or benefits which might be construed as influencing the performance of duties;
- Adhere to Town of Little Elm Code of Ordinance and to the Human Resource Policy regarding ethics/gifts.

Supplier/Vendor Relations

Employees of the Town must:

- Promote positive vendor relations through courtesy and impartiality in all phases of the procurement process;
- Handle confidential or proprietary information belonging to the Town, fellow employees, or vendors with care and proper consideration of ethical and legal ramifications, and governmental regulations;
- Never use information gained confidentially in the performance of duties for profit;
- Exhibit a friendly, cooperative and yet objective relationship to all suppliers; this will help avoid the appearance of partiality in business dealings; and
- Actively strive to comply with Town policies and federal and state laws regarding purchases from small businesses and those owned by minorities and other disadvantaged groups.

Town employees must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible suppliers. Town employees must conduct themselves in such a manner as to foster public confidence in the integrity of the Town of Little Elm procurement organization. It is each employee's duty to report any potential violations to the proper authorities.

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CHAPTER 5 – General Information

Bid Protests

All protests regarding the bid solicitation process must be submitted in writing to the Purchasing Manager within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Texas Local Government Code, as well as protests relating to alleged improprieties or ambiguities in the specifications.

The 5-day limitation does not apply to protests relating to staff recommendations as to award of a bid. Protests relating to staff recommendations may be directed to the Town Council by contacting the Town Secretary prior to Town Council Award.

Budgeted Funds

Funds must be available and in the proper account prior to issuance of a purchase order and before the use of a purchasing card.

Check Request

Check requests are used for the following purchases:

- **Refunds** – Include the reason for request and attach documentation indicating the person or organization name; date of original purchase, contract date or class date; and reason for refund.
- **Contract Labor** – Include the reason for request and attach as backup, a copy of the employee contract for a one-time payment, jury duty, or for instructors. Submit proper documentation such as a copy of the instructor contract.
- **Reimbursements** – Include copy of detailed invoice or receipt.

Debriefing

A debriefing is a review of the vendor's quote, bid, or proposal. It is normally provided to unsuccessful vendors. Debriefings are normally requested during the proposal process, but may be done for any type of solicitation that evaluates factors other than price. The process may be formal (face-to-face) or informal (over the phone/email).

Outline the vendor's strengths and weaknesses. This provides detailed information for the vendor to learn from and to better prepare for future proposals.

Do not discuss competing proposals.

Freight Charges and Fees

Include freight costs and fees in the total cost when obtaining quotes. Note: freight and fees must be considered in determining the award.

All freight should be requested as FOB Destination (delivery address) freight pre-paid and allowed.

Information Technology Purchases

All IT-related purchases/contracts, including software, hardware, copier and printer purchases, rentals, and leases, must be initiated by the Information Services Department to ensure proper security controls are met.

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CHAPTER 5 – General Information

Non-Discrimination Policy

- A. It is the policy of the Town of Little Elm to afford all suppliers an equal opportunity to bid on any contract being issued by the Town.
- B. The Town of Little Elm has a policy that prohibits discrimination against any person because of race, color, sex, religious affiliation, age, disability, or national origin, in the award or performance of any contract.
- C. The Town of Little Elm will require its officers, employees, agents, and contractors to adhere to this Policy.
- D. The Town of Little Elm encourages participation by Historically Underutilized Businesses (HUB's) to bid on Town contracts. The Town of Little Elm works to notify these businesses of bidding opportunities.

Placing Orders

A copy of a purchase order or purchase card (PCard) information must be given to the supplier at the time an order is placed. Invoices may not be paid with a Pcard.

Receiving of Materials

The authorized purchaser is responsible for verifying that all materials/services are received in working order and meet specifications. Once materials/services have been received and verified to be correct, indicate receipt of materials on the invoice by noting "received in full" or "received partial" for each line item on the Purchase Order.

If the quantity received does not agree with the vendor's packing slip or the material does not conform to specification, the vendor must be notified immediately.

Sales Tax Exemption

The Town is exempt from sales, excise and use taxes under Texas Tax Code, § 151.309. The Town is NOT exempt from sales tax for food, lodging or transportation-related purchases for employees during travel.

Tie Bids

If all factors and conditions relating to the bids are equal, then the tie bid will be awarded to the local vendor. If more than one vendor is local or none are local, then a coin toss will be conducted by the Purchasing Manager with at least one witness.

Electronic Signatures

An electronic signature or e-signature is any electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The Town may elect to utilize e-signatures for certain contracts or transactions, when allowed by law. The use of electronic signatures, in accordance with the policy, are legally binding and equivalent to handwritten signatures.

Electronic Receipt of Bids

The Purchasing Division shall request electronic receipt of bids only, following established guidelines set forth in Town Resolution 10211402. The Purchasing Manager may make an exception to this procedure in the event that the Town determines it is necessary to accept paper bids.

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CHAPTER 6 - Bonds, Insurance, and Indemnification

Bond Policy

- A. Bidders may be required to provide certain bonds for Public Works Contracts. This ensures that if the bidder attempts to withdraw after the bid is accepted, the Town will not suffer loss. The Town will only accept corporate sureties duly qualified and authorized. Personal sureties will not be accepted. All required bonds must be approved by the Purchasing Manager prior to contractors or vendors commencing work.
- B. The Town may require bonding on other projects to mitigate risk.
- C. The Town of Little Elm requires payment, performance, and maintenance bonding to be provided on Town approved forms in accordance with statute.

Types of Bonds

- A. **Bid Bonds** –The Bid Bond minimum limit is five percent (5%) of the total amount bid and would typically apply to construction contracts. It is the Town’s option whether or not to require bidders to provide a Bid Bond. Certified or cashier’s checks will NOT be accepted in lieu of a Bid Bond. Bid Bonds are provided on surety forms. Bid Bonds will be returned to the issuing vendor upon request. Bond must be requested within ten days of award.
- B. **Payment Bonds** are required for Public Works Contracts in excess of fifty thousand dollars (\$50,000) and must be written for one hundred percent (100%) of the total bid price. The Payment Bond is for the protection of those performing work as subcontractors or suppliers for the prime vendor/contractor. See Texas Government Code § 2253.021
- C. **Performance Bonds** are required for all Public Works Contracts when the vendor’s bid exceeds one hundred thousand (\$100,000), and they must be written for one hundred percent (100%) of the total bid price. These bonds are solely for the protection of the Town in the event of a contractor/vendor default under Contract terms and conditions. See Texas Government Code § 2253.021
- D. **Maintenance Bonds** can be written for a term relevant to the project. The coverage provided by a Maintenance Bond is to guarantee against defective workmanship and materials.

Insurance and Indemnification Policy

- A. Contractors performing work on Town property or public right-of-way shall provide indemnification and certificates of insurance or a copy of their insurance policy(s) including a copy of the endorsements necessary to meet contract requirements, and hold harmless and defense clauses. The required language is inserted in solicitation documents by the Purchasing division or owner of the specifications.
- B. Contractual agreements must contain a provision that transfers the risk of the project from the Town to the contractor. Because the contractor may not have the financial resources to handle the risks that are transferred in the contract, the Town requires that insurance be purchased and maintained by the contractor for financial security.
- C. Workers’ Compensation Insurance – Per Statute, contractors, and subcontractors hired for building and construction projects must provide Workers’ Compensation Insurance for their employees regardless of the project’s cost. See Texas Labor Code, § 406.096.
- D. Purchasing must verify and approve all insurance documents prior to the contract, purchase order, or commencement of work to be performed.

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CHAPTER 7 - Contracts

A contract is a written, legally binding document or obligation to do or abstain from doing some act. A Purchase Order is a contract.

Purchase orders are written and approved before goods or services are ordered and received. An order may not be placed until the purchase order is approved by Purchasing and issued to the supplier. This ensures purchases are approved and within budget. A Purchase Order or Contract is required when insurance and indemnification is required.

The contractor must perform and meet the requirements of the contract. All guidance provided to a contractor must be within the scope of the contract.

Annual/Term Contracts

Annual/Term Contracts. The Town may use an annual fixed price contract to obtain required goods or services from a chosen vendor for a specified time period. These contracts eliminate the necessity of bidding commodities each time they are needed. Annual contracts require a bid solicitation, award process, and purchase order.

- A. Purchases of items or services may be readily quantified (such as a fixed hourly rate or a fixed price per linear foot) will be awarded on a competitive sealed bid or competitive sealed proposal (CSP) basis and approved according to expenditure authority.
- B. Once an annual contract has been awarded and approved, the responsible department(s) will create an annual or term contract Purchase Order and release the items or services under the Purchase Order number generated from the system. Once approved, no further approvals are needed for purchases against the contract.

Requested items should be detailed by description and unit cost on the P.O. or an attached document, with the remarks section stating that the items are under contract to the specified vendor. Releases will then be reconciled with invoices.

- C. Annual contracts for the purchase of items or services where the price and quantity does not change from one month to another is initiated by issuing one annual/term purchase order, if the system in place permits such activity.

CAUTION: Items or a service purchased from a vendor other than the vendor awarded the work is a direct violation of purchasing policy unless such purchase is an emergency purchase. An emergency is defined in Chapter 14 of this policy, entitled "Emergency Purchases," and includes items that cannot be readily furnished by the contractor awarded the annual contract.

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CHAPTER 8 – Disposal of Surplus Property

Surplus property is property owned by the Town that is no longer needed. There are multiple formats for the disposal process such as: auction, trade-in, recycling, and destruction. All methods require written approval.

- Departments should contact the Purchasing Division prior to disposal of any property over \$5,000.
- Any item that is still operable and has a potential value at auction, please hold for auction.
- Disposition forms / Fixed Asset Forms are available from Finance or on the Town web site.

After approval by the Purchasing Division, equipment should be stored until the property can be removed for auction.

Personal Use Prohibitions and Permissions

Town employees may purchase items from Town issued third party auctions, provided that the employee making the purchase was not involved in the decision to dispose of said item(s).

Purchase of Town Equipment not sold through auction.

Used “disposable” equipment such as cell phones and other electronic equipment may be sold to an employee when available and approved by the IT Manager at a cost equal to the current fair market value. Equipment must be close to or eligible for replacement.

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CHAPTER 9 – Vendor Performance

Vendors play a crucial role in the Town’s day-to-day operations. As such, maintaining communication during the vendor obligation period is important. Both Town staff and the vendor should provide open communication on project status, current issues, and potential issues.

Non-Performing Vendors

When a vendor fails to perform according to the Agreement (Purchase Order, Annual Agreement, Contract, and/or Specification), the Department Director, or designee will:

1. Document the issues in writing to the vendor and to Purchasing.
2. Schedule a meeting to discuss the issues.
3. Document the resolution to the issue, as agreed upon by the department and the vendor. Documentation shall be in writing and signed by the department and the vendor and a copy forwarded to the Purchasing Manager.

If a vendor’s performance remains non-compliant or otherwise unsatisfactory, the department will notify the Purchasing Manager who will attempt to facilitate a resolution. If Purchasing cannot resolve the issues, the Purchasing Manager and the Department Director will make a joint determination to cancel the contract per its terms and conditions. Purchasing will then work with the department to obtain a substitute vendor or issue a new solicitation in accordance with purchasing policy.

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CHAPTER 10 – Public Works Projects

Public Works projects are those projects that require the construction, repair, or renovation of a structure, building, street, highway, bridge, park, water and wastewater distribution facility, airport runway or taxiway, drainage project, or other improvement or addition to real property.

Bid Type

Texas Government Code Chapter 2269 requires the Town Council or its designee to determine which method of procurement provides the best value for the Town.

Prevailing Wage Rates

A. Texas Government Code Chapter 2258 mandates the any Public Work contract awarded by the Town include the requirement to pay prevailing wage rates. The statute requires the payment of a prevailing wage rate for laborers and mechanics and applies to both contractors and subcontractors. Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as mandated.

The Town has adopted the U.S. Department of Labor's Wage Determinations for Denton County, Texas, for use in all Public Works projects. Rates may be accessed at: <http://www.wdol.gov/dba.aspx>.

B. The prevailing wage rate or a link to the wage rates with the date shall be included in public works projects.

C. Rates shall be verified by the Purchasing Manager.

Bonding Requirements

Bonds shall be in accordance with Texas Government Code Chapter 2253.

A. The bond must be executed by a corporate surety in accordance with the policies and an approved Town of Little Elm form.

B. The corporate surety must be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.

C. A Power of Attorney must be included.

D. Bonding shall be verified by the Purchasing Manager prior to award.

Insurance and Indemnification Requirements

A. The minimum insurance required will be specified by the Town of Little Elm.

B. For construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials or performing a service shall provide workers' compensation for all employees. General contractors are responsible for ensuring that sub-contractors carry the same or higher insurance amounts as those required.

C. All contractors shall provide proof of coverage satisfactory to the Town. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage. Texas Labor Code § 406.096

Award of Contract/Agenda Item

A. Staff in conjunction with Purchasing will review and prepare a recommendation for award. Purchasing will write and submit the agenda item information.

B. Contracts will be processed by Purchasing and added to the contract management software.

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CHAPTER 11 – Professional Services

Purpose

The following are designed to assist the Town's staff in the selection of individuals or firms to perform professional services. The desire is to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the Town in accordance with applicable legal requirements.

Departments are asked to seek proposals or qualifications for professional services at least every five years to help ensure the greatest and fairest competition in the selection of professional services by the Town of Little Elm.

Only the Town Manager, Purchasing Manager, or CFO, may sign a contract.

Definition of Professional Services

- A. Professional services generally refer to those services performed by an individual or group of individuals where education, degrees, certification, license, and/or registration are required for qualification to perform the service. The term “professional services” includes labor and skill that is predominantly mental or intellectual, rather than physical or manual, in nature. (See Texas Attorney General Opinion No. JM-940, at p. 3 (1988)).
- B. Certain professions are specifically named in the Professional Services Procurement Act (ACT), Texas Government Code Chapter 2254, Subchapter A. This includes services within the scope of the practice, as defined by state law, of:
 - 1. accounting
 - 2. architecture
 - 3. landscape architecture
 - 4. land surveying
 - 5. medicine
 - 6. optometry
 - 7. professional engineering
 - 8. real estate appraising
 - 9. professional nursing
- C. If a department is not sure if a service is a “professional service,” the department should contact the Purchasing Division before securing such services.

Procurement of Architectural, Engineering, or Land Surveying Services

When procuring architectural, engineering or land surveying services, the Town shall use a two-step selection process (see Texas Government Code § 2254.004):

- A. First, the Town shall select, through the RFQ process, the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- B. Second, attempt to negotiate with that provider a contract at a fair and reasonable price. Negotiations will be facilitated by Purchasing as lead for a team of stakeholders.

If the Town is unable to negotiate a satisfactory contract with the most highly qualified provider of architectural, engineering or land surveying services:

- A. First, the Town shall formally end negotiations with that provider;
- B. Second, select the next most highly qualified provider; and

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CHAPTER 11 – Professional Services

- C. Third, attempt to negotiate a contract with that provider at a fair and reasonable price. The Town must continue this process until a contract is entered into.
- D. A purchase order must be issued upon award of contract.

Fees Estimated to be under \$50,000 per Year

- A. The Department and/or Purchasing Division may solicit proposals from qualified professionals. Proposals will be ranked based on the demonstrated competence and qualifications of the individual or company. Negotiations may be entered into with the most highly qualified according to rank. Selection will follow the procedures established by the Professional Services Procurement Act.
- B. A Purchase Order is required.

Fees Estimated to be \$50,000 or Greater per Year

- A. The solicitation process will be managed by the Purchasing Division.
- B. The process shall contain sufficient information to inform potential Professional service vendors as to the type of project, scope of services to be performed, the selection criteria to be used and weighting assigned to each of the criteria.
- C. After the evaluation of submitted Requests for Proposals, it may be necessary (as determined by the Purchasing Division) to interview several of the firms and further evaluate them on the basis of the interview or a presentation, narrowing the field until one firm is selected for negotiations. Negotiations will be facilitated by the Purchasing Division as lead for a team of stakeholders.
- D. When negotiations are concluded, a recommendation will be made to the Town Council.
- E. A Purchase Order is required.

Procurement of Other Professional Services

- A. Professional services may be contracted through the use of Request for Proposals (RFP) or Competitive Sealed Proposal (CSP) and selection should be made as listed above, however, cost is an additional criterion.
- B. Services with fees under \$50,000 per year may be solicited, evaluated, and awarded by the using department’s director and/or the Purchasing Division.
- C. Over \$50,000, the solicitation process will be managed by the Purchasing Division. The solicitation may be advertised in one edition of the newspaper to run at least one week prior to the due date for RFP or CSP.
- D. The selection process will be similar to that used for professional engineers, architects, and land surveyors, and after negotiations are successfully concluded the Town Council shall be asked to award a contract.
- E. To determine the best solicitation process to use when procuring “other” professional services or if the service is considered “members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence” contact the Purchasing Division.
- F. A Purchase Order is required.

CHAPTER 12 – Change Orders

A change order is the written documentation and approval process that must be performed when changes in the scope of a project are proposed after the performance of a contract has begun. Such changes may include a significant change in the quantity of work to be performed, the cost of work to be performed, or of the materials, equipment, or supplies to be furnished. A change order is usually written for a construction contract but may be necessary in other types of contracts.

Refer to Texas Local Government Code Chapters 252 and 271.

Threshold for Change Orders

A “threshold” is defined as a financial limit on the amount of expenditures which can be authorized by the Town Manager on a construction project before requiring Town Council approval. See Texas Local Government Code Chapters 252 and 271.

- A. **Change Orders Greater than \$50,000** – If the change order is greater than \$50,000 it must be approved by the Town Council.
- B. **Change Orders Less than \$50,000** – If the change order is less than \$50,000 it may be approved by the Purchasing Division.
- C. A change order or cumulative total of project change orders may not exceed 25% of the original contract amount.
- D. Once the total of all approved change orders on a project (including the contingency amount) totals more than \$50,000, all subsequent change orders must be approved by the Town Council.
- E. The original contract price may not be decreased by more than 25% without the consent of the contractor.
- F. Change order forms must be used to document each change.
- G. Change orders shall be listed in number sequence on the Purchase Order.

Approval for Change Orders

- A. If a change order is greater than \$50,000 and is extremely time sensitive and qualifies as an emergency, the Town Manager may approve such a change order prior to Town Council approval; however, such change order still must be brought to the Town Council as soon as possible for approval. Emergency conditions are defined in this policy.

Contingency Funds

The Town Council may establish a contingency fund for a construction project at the time of award of a bid to be used during the course of a project. A contingency fund may be established at any dollar amount above the bid award provided that is reasonable and prudent.

10% or less as determined by staff/budget.

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CHAPTER 13 – Emergency Purchases

EMERGENCY PURCHASES, Texas Local Government Code §252.022

An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and that seriously threatens the functioning of the Town or the protection of property or the health or safety of any person.

Emergency purchases are for critical, unforeseen government need. Because the Town’s ability to serve the public would be impaired if purchases are not made immediately, emergency purchases are exempt from standard purchasing procedures.

True emergencies almost always occur as a result of parts and labor needed for unforeseen repairs to equipment that must be kept operational. When an emergency occurs, the need for quotes will be eliminated; however, written explanation must be indicated on the Statement of Compliance for Irregular Purchases.

1. If the product or services is over \$3,000 and under \$50,000, obtain the Town Manager’s authorization. Once authorization has been received, submit a requisition to Purchasing and obtain a purchase order, call the vendor to initiate repair services or order the needed materials. Immediately or as soon as feasible, submit a copy of the invoice, delivery ticket and the irregular purchase form to Purchasing.
2. In the event the emergency expenditure exceeds \$50,000, follow the same procedures outlined in item 1 above, and prepare an agenda item and/or resolution for Town Council approval prior to payment for the products or services purchased.

An emergency created through neglect will not be processed as an emergency.

Typical examples of such neglect are:

- a. Depletion of stock due to lack of planning.
- b. Building or equipment needing repairs for some time, suddenly becoming an emergency overnight.
- c. Orders of materials for projects most of which must be planned weeks or months ahead of time, and requested just before desired use.

DISASTER EMERGENCY PURCHASES, Texas Local Government Code §252.022

In extreme cases involving a disaster, an emergency declaration will be made by the Mayor. All purchases must be documented through proper state & federal forms and authorized by the Emergency Operations Center or designated employee.

Non-exempt purchases over the State Bidding Limit shall be retroactively reported to Town Council.

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CHAPTER 14 – Sole Source Purchases

SOLE SOURCE PURCHASES

Sole source purchases are goods and services available from only one supplier. There may be one vendor because of patents, copyrights or simply because the vendor is the only one which supplies the good or service.

Examples: Patented products, monopolized items, rare books, captive replacement part, or component for equipment, and software with exclusive distribution rights.

Items that are only available from one manufacturer are not a sole source, if the items can be purchased from distributors. Similarly, books available from multiple sources are not sole source.

The Town is responsible for obtaining and retaining documentation from the vendor that clearly states the reasons the purchase must be made on a “sole source” basis.

Written Justification

Sole Source purchases do not require multiple quotes. In order to request a sole source purchase, the following shall be provided with a requisition to the Purchasing Division:

1. A departmental justification statement explaining why a specific product or service is considered a sole source. Ideally, this statement will describe the specific feature or capability that the material or service possesses that no other product can provide.
2. A sole source letter from the supplier (written on company letterhead), stating why this material or service is sole source, explaining the specific feature or capability it has that is not available from other sources.

For example, only one vendor sells equipment with the special feature. Other vendors have a similar feature but not exactly the same. Ask the question: do we need the specific feature and why would a similar product not work.

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CHAPTER 15 – Cooperative Purchases

COOPERATIVE PURCHASES

Texas Government Code, Chapter 791, and Texas Local Government Code, Chapter 271, authorize the use of cooperative purchasing programs. These chapters authorize the Town to use (piggyback) on another entity's bid and likewise allows another entity to use the Town's contracts. Additionally, the statutes allow the Town to use a cooperative contract issued by an established cooperative agency.

The following must be included and established in order for the Town to utilize a cooperative contract.

1. The awarded vendor must have agreed to the language (term).
2. An interlocal agreement must be in place.

The Town has established memberships and interlocal agreements in place and promotes participation in cooperative purchasing programs. Current Interlocal Agreements and Contracts are available on the e-procurement website at www.littleelm.org/purchasing.

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CHAPTER 16 – Procurement Card

Purpose

The Procurement Card (PCard) Program is designed for procuring goods and services that do not exceed \$3,000. It provides the Town an efficient and controllable method for monitoring small dollar purchases, reducing paperwork, and paying vendors in a timely manner. The cards are requested by department Directors and issued through JP Morgan Chase by the Program Administrator as needed. Cardholders must agree and adhere to the guidelines listed below and those set forth in the Town’s Procurement Policy. The card is intended to replace petty cash, small dollar purchase orders, emergency purchases, and other Finance approved credit card use. Any usage outside of this policy is a violation and subject to revocation of PCard and purchasing privileges.

Usage

After activating and signing the back of the card, cardholders may use their PCard for Town purchases only. When in doubt as to whether a purchase is allowable, the cardholder should contact their Director or the Program Administrator prior to making the purchase. The card may be used for most transactions not exceeding the cardholder’s transaction limit, including, but not limited to:

- “Brick and mortar” retail purchases;
- Telephone or online orders;
- Travel (including lodging, conference fees, and training); and
- Services.

While quotes are not required, care should be taken to ensure the taxpayers’ dollars are used efficiently and the best value is obtained.

Payments

Purchases made with a PCard must be paid for when the order is placed. If the exact amount is not known or the vendor does not accept credit cards, a requisition should be entered and a PO issued and submitted to the vendor prior to placing the order.

In no event, shall an order be placed without a PCard payment up front. Invoices shall not be paid with a PCard. If an invoice is received for a small dollar purchase, it shall be forwarded to Accounts Payable for payment.

Receipts

An original, itemized receipt for every purchase must be obtained from the vendor each time the card is used. Restaurant purchases must include the credit card receipt with the total, including tip, in addition to the itemized receipt. Online and telephone purchases must also be documented by a receipt, which may be emailed, faxed, or mailed to the cardholder.

Vendors should not send invoices for PCard purchases to Accounts Payable, as this may result in duplicate payments.

Receipts must be scanned and uploaded into STW.

If a receipt is lost, misplaced, or destroyed, the cardholder must make every attempt to obtain a duplicate. In the event that a duplicate receipt cannot be provided, the cardholder must notify the PCard Administrator, and provide an Affidavit of Lost or Destroyed Receipt with the appropriate PCard billing cycle reconciliation.

Card Security

Each cardholder is responsible for all charges to their assigned PCard and must maintain the card in a safe and secure manner that prevents unauthorized or improper use. The PCard is not to be loaned or made available to another employee, friend, or family member under any circumstance.

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CHAPTER 16 – Procurement Card

Restrictions

PCards may not be used for personal purchases of any kind. If a personal purchase is made accidentally, and caught at time of payment, request the vendor reverse/refund the purchase. If the transaction is not caught, a personal check for the full amount of the purchase must be included with the monthly expense report. Other restrictions include, but are not limited to:

- Alcohol or liquor;
- Spouse or family member expenses incurred while traveling (see Travel Policy for other excluded travel related expenses);
- Circumventing the Purchasing Process by splitting transactions to avoid quote or bid requirements;
- Entertainment, such as theatre, movies, etc.;
- Services such as contracts and agreements
- Cash refunds or advances
- Fuel purchases for a personal vehicle;
- Computer hardware, software, and services without prior written approval from the IT Manager. IT Purchase Form must be uploaded to STW as part of the receipt process; and
- Communications hardware, software, and services without prior written approval from the IT Manager. IT Purchase Form must be uploaded to STW as part of the receipt process.

Each procurement card has an individual transaction limit, a monthly spending limit, and restrictive merchant codes (MCC). Each card may be restricted as to the number of swipes that may be made for a given period of time and vendors the cardholder may purchase from. PCards may also be restricted as to the daily, monthly, or transaction amounts of card purchases. A card transaction will be denied when swiped if the transaction exceeds any of the limits. These limits and restrictions can be adjusted online by the Program Administrator and will take effect immediately.

Sales Tax

As a tax-exempt government agency, the Town of Little Elm does not pay sales tax. PCards display the Town’s tax exempt number. Cardholders are responsible for ensuring that the Town is not charged sales tax by alerting the merchant in advance that the transaction is tax exempt. If tax is included, the Cardholder is responsible for the reversal or reimbursement of the sales tax charge.

Billing Cycle

The PCard billing cycle ends on the 5th of each month and must be processed in a timely manner.

Travel Expense Reports

It is the Town's policy to pay for, or reimburse, all reasonable and necessary expenses incurred when an employee travels for Town-related business. Direct payment of travel expenses with a PCard is encouraged, as permitted. (See Personnel Policy as it relates to Town travel).

If a cardholder places Town travel expenses on a personal credit card, and the airfare/hotel/event is cancelled or postponed for any reason; providing a credit to the individual, the Town will not reimburse the cardholder for such travel expenses.

Travel expense reports allow for the itemization of PCard purchases as “prepaid expenses.”

As outlined in the Town’s Cardholder Policy, meals are paid for via per diem and meal charges are not permitted. Per Diem is requested on Travel Expense form 1. All expenses must be accounted for and submitted via Travel Expense form 2 within 10 days of trip.

CHAPTER 16 – Procurement Card

Cardholder Duties and Responsibilities

Cardholders, or an assigned Admin, are responsible for reconciling their transactions in STW. The cardholder must ensure each transaction is within the guidelines, sales tax was not applied, and the original “detailed” receipt is included. Once the transactions have been reconciled and approved in STW, print an expense report, attach detailed receipts, and submit to the Program Administrator with Cardholder signature by the designated date each month.

The cardholder is responsible for processing returns, verifying credits are received, and disputing charges directly with the vendor. The transaction in dispute must be noted in the item’s description in STW. Cash refunds for returns are not allowed. The cardholder must verify the credit is received and attach documentation such as a return receipt or email from the vendor to the expense report. If a cardholder finds a discrepancy, they should contact the vendor and attempt to resolve the problem directly. If a cardholder cannot resolve a disputed item directly with a vendor, the cardholder should contact Program Administrator for assistance.

The cardholder is responsible for immediately notifying JP Morgan Chase, their supervisor, and the Program Administrator if the card is lost or stolen. The contact number is found on the back of the physical card. The cardholder shall also complete the Lost Card Form and submit it to the Program Administrator promptly. If fraud is suspected, the same steps should be followed.

Department Director Duties and Responsibilities

The Department Director is responsible for auditing and approving the transactions in STW after cardholder reconciliation.

PCards must be returned to the Program Administrator immediately upon notice of resignation, transfer, or termination of the cardholder. In the event of unauthorized or inappropriate purchases, the Town reserves the right to withhold final paychecks until this is resolved.

In the event a cardholder has used the card fraudulently, the Department Director shall immediately retrieve the card and report the misuse to the Program Administrator. Fraudulent activity of any kind is cause for immediate suspension or termination administered by the Town’s Human Resources Department.

Program Administrator Duties and Responsibilities

The PCard program is administered and maintained by the Purchasing Division and is the Town’s point of contact for the program. Upon approval, monthly expense reports and receipts are submitted to the Program Administrator for review, general ledger updating, and filing for audit purposes. The Program Administrator orders and terminates the PCards, trains cardholders, maintains card limits and documentation, reconciles the expense reports with the Town’s financial software, and audits the expense reports and receipts for compliance.

The Program Administrator will report to the Department Director and Chief Financial Officer (CFO) any cardholder infractions. Misuse and/or abuse of card privileges will be dealt with as follows:

- **1st Occurrence:** The Program Administrator, Chief Financial Officer (CFO), and Department Director will determine if the cardholder will continue in the card program. Department Director will take the necessary, documented steps, to prevent further issues. Documentation will submitted on the Statement of Non-Compliance form.
- **2nd Occurrence:** The Program Administrator and Chief Financial Officer (CFO) will terminate the cardholder’s privileges with deferral to the Human Resources Department for disciplinary action.

CHAPTER 16 – Procurement Card

Revocation of the Purchasing Card

The purchasing card is subject to revocation at any time at the discretion of the Purchasing Manager and the Chief Financial Officer (CFO). Each cardholder must acknowledge receipt of the purchase card, understand the rules of usage, and sign the Cardholder Agreement Form. Failure to abide by this policy will result in revocation of their card and disciplinary action up to termination of employment. The cardholder will be required to reimburse any unauthorized transactions and the Town reserves the right to withhold final paychecks until all purchases are satisfactorily reconciled.

The Program Administrator will recommend to the Chief Financial Officer (CFO) that the card be revoked following any violation of the Procurement Card policy. The Program Administrator is authorized to temporarily suspend use of the card if unauthorized use is discovered and poses a threat to internal financial controls.

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Appendix A

APPENDIX A

References

State of Texas Statutes

1. Texas Local Government Code; Chapter 252, 253 271
2. Texas Government Code; Chapter 552, 791, 2251, 2252, 2253, 2254, 2258, 2269
3. Texas Labor Code, Chapter 406
4. Texas Insurance Code, Chapter 1811

Town Charter

1. Section 8.09 Purchasing
2. Section 14.08 Conflict of Interest

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Appendix B

DEFINITIONS

Annual Contracts – Items under contract at a specific price over a specific period of time that are used continuously throughout the year by one or more departments. Annual contracts may be established for either a fixed quantity or an estimated quantity. Annual Contracts established for an estimated quantity are also called Requirements Contracts or Term Contracts.

Purchaser – Any person designated by the Town Manager or a Department Director to purchase products and/or services within a defined level of authority.

Best Value – Term as defined in Texas Local Government Code section 252.043. Differs from low bid based on the additional evaluation of quality, bidders past relationship with the municipality and total long-term cost to the Town. Relevant criteria shall be expanded to include sustainability factors in specifications when practicable.

Bid – (IFB) A formal document used to define products and/or services to be purchased.

Bonding:

Bid Bond – A bond guaranteeing that a vendor will execute a contract if it is selected for a project.

Payment Bond – A bond guaranteeing that a vendor will pay fees owed for labor and materials necessary for construction of a project.

Performance Bond – A bond guaranteeing that a vendor will perform under the contract in accordance with all specifications of the bid submitted.

Maintenance Bond – A bond guaranteeing that completed work is free of flaws and will perform its intended function for a specified period of time.

Change Order - A document detailing necessary changes in plans or specifications or increases or decreases in the quantity of work or materials to be purchased after the contract is approved which, as required under the Texas Local Government Code, section 252.048, must be approved by either the Department Director, the Town Manager or his designee, or the Town Council, depending on the dollar amount of the contract.

Consultant - An expert or a professional in a specific field that has a wide knowledge of the subject matter. The selection of a consultant will be the same as the selection of a professional service provider.

Emergency Purchase – A purchase made under certain defined situations such as, but not limited to, a purchase necessary to preserve or protect the public health or safety of the municipality’s residents, allowable under the Texas Local Government Code section 252.022 as exemptions from competitive bidding and competitive proposals.

Excluded Parties List System (EPLS) - A website administered by the General Services Administration for the purpose of providing information on parties that are under suspension or debarment from receiving Federal contracts. The website for the EPLS search is www.sam.gov.

Financial Interest – Ownership, equity interests or entitlement to such interests (including stock, stock options, partnership interest and convertible debt but excluding interest in publicly-traded investments where the individual investor has no control over the selection of holdings or significant interest).

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Historically Underutilized Business (HUB) – Any business determined by the State of Texas to be a minority.

Construction Project: – A construction program involving the mixture of labor and/or materials needed to produce the desired results. Samples of projects may be the construction of roads, water and sewer distribution systems and facilities.

Separate, Sequential, and Component Purchases – Purchases associated with intentionally avoiding the bidding process by splitting purchases. These types of purchases are closely monitored by the Texas Attorney General's Office. The following definitions are taken directly from the Texas Local Government Code:

Separate Purchases – Means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase, (i.e. – purchase a car today and an engine tomorrow).

Sequential Purchases – Means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase (i.e. – purchase a uniform for one employee and waiting one day to purchase for another).

Component Purchases – Means purchases made of the component parts of an item that in normal purchasing practices would be purchased in one purchase (i.e. – purchase a CPU, monitor, and keyboard on different days).

Insurance:

Commercial Automobile and Truck Liability Insurance – Provides coverage on owned, hired, and non-owned vehicles covering loading and unloading hazards written on an occurrence basis having a combined bodily injury and property limit, or separate limits for per person bodily injury, per accident bodily injury, and property damage limits.

Commercial General Liability Insurance – Provides coverage for general liability, fire, legal liability, products and completed operations liability, advertising and personal liability, and medical payments as described under the common law of liability of the State of Texas.

Employer's Liability Insurance – Provides coverage when an employee sues for work related injuries suffered under Texas common law.

Excess Liability Insurance – Provides coverage that pays benefits only when coverage under other applicable insurance policies has become exhausted; also known as "Umbrella."

Worker's Compensation Insurance – Provides coverage for all compensation and all benefits required under the Worker's Compensation Act of the State of Texas.

Interlocal Agreement – An agreement that allows local governments to contract with each other to provide governmental functions and services including joining together in contracting with others to provide goods and services.

Invoice – A document submitted to the Town of Little Elm, by a vendor, requesting payment for products and/or services received and accepted.

Job Order Contract – A procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite.

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Local Preference – A preference allowable to a vendor whose principal place of business is inside the Town limits. The preference applies only to bid awards and is for evaluation purposes only.

Newspaper of Record – A newspaper which meets the requirements stated in Section 2051.044 of the Texas Government code for advertising purposes.

Nonresident Bidder – Any bidder that does not maintain their principal place of business within the State of Texas.

Check Request – A document initiated by an authorized Town representative that approves payment to a vendor when a purchase order is not feasible or required.

Personal Services – A contract is for a personal service if a specific individual person is required to perform the service. The service must be performed by the individual named in the contract.

Planning Services – Those services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the municipality.

Professional Services – A service which includes, but is not limited to, a certified public accountant, professional engineer, architect, landscape architect, land surveyor, physician or surgeon, nurse, attorney, instructor, appraiser, and consultant. A professional service is defined as a service requiring predominately mental or intellectual rather than physical or manual skills. A professional is the one who is a member of a discipline with widely accepted standards of required study or specified attainments in a special knowledge.

Project – Unless defined elsewhere, for purposes in this directive, a project is defined as a construction project, consisting of material and labor.

Purchase Order (PO) – A document created by the Purchasing Division that gives vendor authorization to provide supplies and services of purchases valued at \$1,000 and above.

Quote – An offer, including pricing, quantity, and shipping charges, from a vendor which may or may not be accepted by Town staff. Quotes are acceptable for pricing purposes when competitive bidding or proposals are not required.

Request for Proposal (RFP) – A formal document used to solicit product and cost information for goods or services where subjective criteria are used to select from respondents.

Request for Qualifications (RFQ) – A formal document used to solicit qualifications and experience of potential providers of professional services.

Requirements Contracts – An annual contract that is established based on an estimated quantity. Under this type of contract, the Town has estimated its usage during the term of the contract, but is not obligated to purchase more or less than what it actually requires.

Retainage – A percentage of payment(s) held back as security for the faithful completion of the work.

Reverse Auction – An auction in which bidders compete to sell something to a single buyer, so the bid price proceeds downward rather than upward.

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Sole Source Purchase – Any purchase of items available from only one source because of patents, copyrights, proprietary processes, natural monopolies, captive replacement parts, or components for equipment.

State Authorized Level/State Contract Expenditure Limit – The dollar amount, as set forth by the State of Texas, at which competitive sealed bids or competitive sealed proposals must be obtained.

State Cooperative Program – A program that allows a local government to purchase goods from the State's purchasing contracts, and allows the State to solicit bids on the local government's behalf, when considered feasible by the General Services Commission.

User Department – Any Town department.

Vendor – Any business which provides products and/or services in an open and competitive market.

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Appendix C

ACRONYMS

CM:	Contract Management
COOP:	Cooperative Purchasing Program
CSB:	Competitive Sealed Bid
GSA:	General Services Administration (Federal)
HUB:	Historically Underutilized Business
IFB/ITB/CSB:	Bid/Invitation for Bid/Invitation to Bid/Competitive Sealed Bid
Quote:	Invitation to Quote
M/WBE:	Minority/Women Business Enterprise
NIGP:	National Institute of Governmental Purchasing
REQ:	Requisition
RFI:	Request for Information
RFP/CSP:	Request for Proposal/Competitive Sealed Proposal
RFQ:	Request for Qualifications/Request for Statement of Qualifications
RFA:	Request for Applications
SOW:	Scope of Work

Appendix D

CHOOSING A PROCUREMENT METHOD

Procurement Method	Use When	Advantages	Disadvantages
Invitation to Bid	<p>Lots of competition exists.</p> <p>The product or service is available from more than one source.</p>	<p>Award process is simpler.</p> <p>Award is made to the lowest responsive, responsible bidder providing the best value to the State.</p>	<p>Defined specifications may be difficult to develop.</p> <p>Does not encourage innovative solutions</p>
Request for Proposal	<p>When factors other than price are evaluated.</p> <p>When negotiations are desired.</p> <p>Vendor is expected to provide innovative ideas.</p>	<p>Allows factors other than price to be considered.</p> <p>Allows for customized proposals suggesting different approaches to the same business need.</p> <p>Allows for negotiations in order to obtain the best value for the state.</p>	<p>Lead times for procurement are much greater.</p> <p>Evaluations are more complex and subjective.</p>
Request for Information	<p>There is insufficient information to write specifications for any procurement method</p>	<p>Provides information to prepare a complete bid or proposal document.</p> <p>Allows the business community to have input into the agency's solicitation document based on current industry practices and market factors.</p> <p>Informs agency of any potential problems early in the procurement.</p>	
Request for Qualifications	<p>Selection is made solely on the skills and qualifications of the contractor.</p> <p>Price is not a factor until after a vendor is selected.</p>	<p>Emphasizes the competency of the proposed contractors.</p>	<p>Contractor is selected before price is negotiated.</p>

Table courtesy of the State of Texas Contract Management Guide version 1.10.