

CITY OF ALVIN



PURCHASING POLICES & PROCEDURES MANUAL

City of Alvin – Purchasing Policies & Procedures Manual

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PRINCIPLES OF PURCHASING

1. To consider the best interests of City of Alvin in all transactions and to carry out its established policies.
2. To purchase without prejudice, seeking to obtain the maximum value for each dollar of expenditure according to City of Alvin quality standards.
3. To strive consistently for knowledge of the materials and supplies required for use of the City and to establish practical methods of obtaining them.
4. To subscribe to and work for honesty and truth in buying and to denounce all forms of conflict of interest.
5. To avoid all unethical practices.
6. To be receptive to competent counsel from colleagues and to be guided by such counsel without impairing the dignity and responsibility of the office.
7. To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standing of public purchasing.

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FINANCE RESPONSIBILITIES

1. Monitors and administers the *Purchasing Policies and Procedures Manual* for purchasing or contracting City supplies, equipment, services and construction. Observe and enforce the policies as herein outlined and all related regulations.
2. Maintain knowledge of current developments in the field of purchasing, prices, market conditions, and new products. Secure for the City the benefits of research done in the field of purchasing by other governmental agencies and private businesses. Maintain knowledge of changes/updates pertaining to Purchasing in the Local Government Code.
3. Process department Requisitions and/or Purchase Orders in a timely and efficient manner.
4. Assist departments in purchasing materials and services when requested.
5. Approve all requisitions and process all Purchase Orders.
6. Maintain active computerized vendor files in such a manner as to maximize purchasing effectiveness.
7. Promote standardization whenever possible in all areas of purchasing. Areas such as general specifications, quality standards, performance standards, and equipment/supplies should be included in this format.

DEPARTMENTAL RESPONSIBILITIES

1. Comprehend, apply and follow the Purchasing Policy.
2. For all purchase requisitions greater than \$3,000, but not exceeding \$50,000, obtain at least three quotes from appropriate vendors.
3. For all purchase requisitions \$50,000 or more, obtain competitive sealed bids from appropriate vendors.
4. Prepare purchase requisitions in a timely and efficient manner prior to the actual transaction taking place.
5. Develop specifications and determine the quality of supplies, equipment, services, quantity and the delivery date required.
6. Review sealed bids and proposals and recommend award of contracts.
7. Submit all bid related documents including a copy of the award letter to City Clerk.

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8. Each department shall receive and inspect items delivered, report any shipments that fail to meet the purchase order and notify the vendor of all discrepancies and items that need to be returned.
9. Upload documentation (contracts, price proposals, quotes, etc.) supporting transactions involving the outflow of City's financial resources.
10. Utilize all legitimate techniques such as volume, cooperative purchasing, buying, and annual contracts to keep costs as low as possible.

CITY CLERK RESPONSIBILITIES

1. Prepare and legally advertise all invitations to bid, hold pre-bid conferences and bid openings. Encourage competition and endeavor to obtain full and open participation in the bidding processes by all responsible vendors. Maintain confidentiality of all information used in the bidding process.
2. Obtain bids with receiving date and/or time recorded and perform bid opening procedures at specified time and place.
3. Maintain all City maintenance, lease, rental, agreements and contracts.
4. Maintain all bid-related documents.
5. Maintain active file of Insurance Certificates received for vendors and contractors.
6. Distribute executable contracts/agreements to appropriate departments after all authorized parties sign off.

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INTRODUCTION IN GENERAL

This Purchasing Manual (the "Manual") establishes the policies and procedures governing the City's purchase of goods and services. This Manual accomplishes the following purposes: (1) it delineates procedures that are consistent with law as well as good business practices; (2) it provides basic information for proper preparation of purchasing requisitions; (3) it describes methods of procuring goods and services; and (4) it establishes standard purchasing procedures.

Only the City Council, the City Manager and Assistant City Manager/Chief Financial Officer (within his/her purchasing limitations) are vested with authority to contract for the City of Alvin. The Department Head or their designee may approve the purchase of goods or services that does not exceed a value of \$3,000. The Assistant City Manager/Chief Financial Officer or his/her designee may approve the purchase of goods or services greater than \$3,000, but not exceeding \$25,000. The City Manager may approve the purchase of goods or services greater than \$25,000 but not exceeding \$50,000. All purchases of goods or services valued at more than \$50,000 shall require City Council approval.

No contract or purchase order will be binding upon the City unless authorized by the City Council, City Manager, Assistant City Manager/Chief Financial Officer, or Department Head as applicable; and unless the Department Head certifies that there is to the credit of the City office or department a sufficient appropriation and unencumbered balance to pay for the goods and/or services for which the contract or purchase order is to be issued. The City's purchase of goods and services shall be made according to a check request, purchase order or purchasing card from the head of the office or department whose budget or other approved appropriation source will be charged for the purchase. All purchasing card purchases shall follow the City's Purchasing Card policy in effect. Any City personnel who authorize or attempt to authorize a purchase order without proper approvals will be subject to disciplinary action.

GENERAL ETHICAL STANDARDS

- **Personal Gain.** It shall be a breach of ethics to attempt to realize personal gain through public employment with City of Alvin by any conduct inconsistent with the proper discharge of the employee's duties.

Influence. It shall be a breach of ethics to attempt to influence any public employee of City of Alvin to breach the standards of ethical conduct set forth in this section.

- **Conflicts of Interest.** It shall be a breach of ethics for any employee of City of Alvin to participate directly or indirectly in procurement when the employee knows that:
 - the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement.

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- a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
- any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- **Gratuities.** It shall be a breach of ethics to offer, give or agree to give any employee or former employee of City of Alvin, or for any employee or former employee of City of Alvin to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore pending before this government.
- **Kickbacks.** It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for City of Alvin, or any person associated therewith, as an inducement for the award of a subcontract or order.
- **Contract Clause.** The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.
- **Confidential Information.** It shall be a breach of ethics for any employee or former employee of City of Alvin knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

In addition to these ethics standards, City of Alvin also adopted the City Code of Ordinance regarding ethics.

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BUSINESS RELATIONS WITH SUPPLIERS

It is essential to develop and maintain goodwill between the City of Alvin and its suppliers. The reputation of the City can be promoted by:

- (a) Giving all salespersons a full, fair, prompt, and courteous hearing.
- (b) Keeping competition open.
- (c) Keeping specifications accurate, clear and without bias for a specific product or service.
- (d) Having and applying consistent buying policies and principles.
- (e) Being truthful in every transaction and correspondence.
- (f) Respecting the confidence of the salesperson or the company about confidential information.
- (g) Keeping free from any obligation to any vendor.

OPEN RECORDS POLICY

Release of any bid is subject to the Public Information Act. Trade secrets and confidential information in competitive sealed bids are not open for public inspection. 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.

SALES TAX EXEMPTION

The purchase of tangible personal property for use in the performance of a contract for an improvement to realty of the City is exempt from sales and use tax. (Texas Tax Code 151.311)

In addition, tangible personal property that is necessary or essential to the performance of a contract for the City is exempt if the tangible personal property is completely consumed at the job site. Tangible personal property is completely consumed if, after being used once for its intended purpose, it is used up or destroyed. Machinery and equipment are not exempt; and the contractor owes tax on the lease or rental of machinery, equipment, repair and replacement parts, and accessories for the machinery or equipment.

Taxable services purchased for use in performing the contract will be exempt from tax if the service is performed at the job site, and the service is either expressly required under the contract or is integral to the performance of the contract.

Sales and Use Tax Exempt Certifications and Texas Resale Certificate forms are issued by the contractors directly to the suppliers.

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CIRCUMVENTION OF PURCHASING

It is unlawful to knowingly or intentionally authorize separate, sequential or component purchases to avoid the competitive bidding statutes.

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

Sequential purchases means purchases, made over a period of time, of items that in normal purchasing practices would be purchased in one purchase.

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

LEASE PURCHASES / CONTRACT FINANCING

All lease purchases or any financing plans attached to any purchasing transaction, or any contract/agreement binding the City to any form of future commitments or obligations shall be reviewed and approved by Finance and Legal Departments before submission to the City Manager.

PURCHASING VIOLATIONS

All City of Alvin employees must follow the Purchasing Policy as outlined. Substantiated, intentional, or knowing violations of the Purchasing Policy by an employee will result in disciplinary action, up to and including termination of employment by Department Head or City Manager.

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DEFINITIONS

The following definitions apply to this Purchasing Manual:

- (a) "Architect" means an individual registered as an architect under Article 249a of the Texas Revised Civil Statutes.
- (b) "Design-build contract" means a single contract with a design-build firm for the design and construction of a facility.
- (c) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer or architect and builder qualified to engage in building construction in Texas.
- (d) "Design criteria package" means a set of documents that provides sufficient information to permit a design-build firm to prepare a response to the City's request for qualifications and any additional information requested, including criteria for selection. The design criteria package must specify criteria the City considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, or any other requirements, as applicable.
- (e) "Engineer" means an individual registered as a professional engineer under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes).
- (f) "Facility" means buildings the design and construction or which are governed by accepted building codes. The term does not include:
 - (1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
 - (2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.
- (g) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:
 - (1) data processing equipment and software and firmware used in conjunction with data processing equipment;
 - (2) telecommunications equipment and radio and microwave systems;

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- (3) electronic distributed controls systems, including building energy management systems; and
 - (4) technical services related to those items.

- (h) Historically Underutilized Business (HUB) When a city makes an expenditure of more than \$3,000 but less than \$50,000, the city is required to contact at least two historically underutilized businesses (HUB) on a rotating basis, based on information provided by the Texas Building and Procurement Commission pursuant to Chapter 2161 of the Government Code; and the Texas Local Government Code 252.0215. If the list fails to identify a historically underutilized business in Brazoria County, the city is exempt from this requirement. .

- (i) "Planning services" means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

- (j) "Professional services" means services that require a high level of knowledge and experience and that are consistent with the standards of professionalism. Professional services include, but are not limited to, the following services within the scope of the practice 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; and
 - (10) any other service requiring special knowledge or attainment and a high order of learning, skill and intelligence.

- (k) "Sole source items" means items that are available from only one (1) source, including, but not limited to: (i) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; (ii) films, manuscripts, or books; (iii) gas, water, and other utility services; (iv) captive replacement parts or components for equipment; (v) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and (vi) 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.

When a department has identified a specific brand, and will not consider alternate products, a detailed justification explaining why other vendors or products are not

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acceptable must be provided to Finance and Legal departments in advance for review and concurrence.

- (1) “Emergency Purchase” means a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipalities residents or to preserve the property of the municipality; a procurement necessary to preserve or protect the public health or safety of the municipality’s residents; a procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

All emergency purchases must be approved by either the City Manager, Assistant City Manager/Chief Financial Officer or their designee before purchases can be processed.

PROFESSIONAL SERVICES

Professional services are exempt from the competitive sealed bidding and competitive sealed proposal requirements of state law. The City will select a provider of professional services on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price.

If architectural, engineering, or land surveying services are involved, the City will first select the most highly-qualified provider of those services on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering or land surveying services, the City will formally end negotiations with that provider, select the next most highly qualified provider and attempt to negotiate a contract with that provider until a contract is entered into.

An expenditure not exceeding \$50,000 does not require City Council approval; and the City Manager is empowered to approve such purchases and to enter into contracts within such dollar amount. Any expenditure more than \$50,000 shall require the City Council approval.

If the expenditure is more than \$50,000 for architectural, engineering or land surveying services, the City will solicit a formal request for qualifications (“RFQ”) from the provider(s) of such services. Responses to the RFQ will be reviewed by City staff and the providers will be ranked according to the most highly qualified, the next most highly qualified and so on. Council action will then be scheduled to approve the staff rankings of the three (3) most-qualified providers, to authorize negotiations with the most highly qualified provider, the next most highly qualified provider (if a satisfactory contract cannot be negotiated with the most highly qualified provider) and so on; and to authorize the City Manager to negotiate a contract at a not to exceed dollar value established by the Council. In such cases the City Manager is authorized by this Manual to execute the contract negotiated with the professional services provider without further Council approval.

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OTHER EXEMPT PURCHASES

In addition to professional services, the following purchases are exempt from the competitive sealed bidding and competitive sealed proposal requirements of state law:

1. emergency purchases (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);
2. purchases necessary to preserve or protect public health or safety;
3. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
4. a procurement for personal, professional or planning services,
5. a procurement for work that is performed and paid by the day as the work progresses;
6. a purchase of land or a right-of-way;
7. a purchase of sole source items;
8. a purchase of rare books, paper and other library materials for a public library;
9. a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
10. a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212 of the Local Government Code;

Chapter 212, Subchapter C of the Texas Local Government Code authorizes the City to enter into contracts with a developer of a subdivision or land in the City to construct public improvements, not including a building, related to development. Competitive sealed bidding is not required for such contracts if the city complies with the terms of that subchapter. The contract must establish the limit of participation by the City at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the City at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the City including, but not limited to, increased capacity of improvements to anticipate other future developments in the area. The City is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by City ordinance.

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11. paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
12. goods purchased by the City for subsequent retail sale by the City
13. electricity
14. advertising, other than legal notices
15. personal property sold:
 - a. at an auction by a state licensed auctioneer;
 - b. at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - c. by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
 - d. under an Interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

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HIGH TECHNOLOGY PROCUREMENTS

For high-technology procurements, the following requirements shall apply:

- (1) \$3,000 or less - the department may call one source only and place an order;
- (2) More than \$3,000, but not exceeding \$25,000 - a minimum of three (3) price quotations shall be required. Price quotes may be obtained in writing, by telephone, or by email/internet. The price quotations listing the three (3) vendors and their quotations shall be entered by user departments when inputting requisition on the financial software system. Requisitions must be approved by appropriate levels before the purchase order can be issued. The Assistant City Manager/Chief Financial Officer may approve high-technology purchases of \$25,000 or less.
- (3) More than \$25,000, but not exceeding \$50,000 -- the City Manager approval is required.

If the purchase amount is greater than \$3,000 but less than \$50,000, the department must contact at least two (2) HUBs on a rotating basis based on information provided by the Texas Building and Procurement Commission pursuant to Chapter 2161 of the Government Code. If the list fails to identify a HUB in Brazoria County that provides the goods and services, then this requirement shall not apply.

For high-technology procurements \$50,000 or more, the competitive sealed proposal requirements of state law shall apply. The City Manager shall determine which department shall be responsible for developing the technical specifications and terms of the request for proposals ("RFP"). Notice of the time and place at which the proposals will be publicly opened and read aloud will be published at least once a week for two consecutive weeks in the Alvin Sun. The date of the first publication must be before the 14th day before the date set to publicly open the proposals and read them aloud. The department may discuss the proposals with the offerors who are determined to be reasonably qualified for the award of the contract. Discussions must be held according to the terms of the RFP. Offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions to the RFP are permitted after submission and before award of the contract. The contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the City considering the relative importance of price and other evaluation factors included in the RFP.

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PURCHASE OF INSURANCE

A purchase of insurance requiring an expenditure of \$5,000 or less does not need to be competitively bid. Except as otherwise provided herein, any purchase of insurance requiring an expenditure greater than \$5,000 will be accomplished through the competitive sealed bidding process.

Competitive sealed bidding is not required for the purchase of life, sick, accident and other health benefits and insurance through a risk pool established pursuant to Chapter 172 of the Texas Local Government Code, Chapter 791 of the Texas Government Code and Texas Trust Code (Title 9, Subtitle B, Texas Property Code).

PURCHASE OF OTHER GOODS AND SERVICES

The purchase of other goods and services (excluding insurance, professional services, exempt procurements, construction services and high-technology procurements) shall be subject to the provisions of this section. If the purchase is \$50,000 or less the following requirements shall apply:

- (a) \$3,000 or less - the department may call one source and place an order;
- (b) More than \$3,000, but not exceeding \$50,000 - a minimum of three (3) price quotations shall be required.

Price quotes may be obtained in writing, by telephone, or by email/internet. If the purchase amount is greater than \$3,000 but less than \$50,000, the department must contact at least two (2) HUBs on a rotating basis based on information provided by the Texas Building and Procurement Commission pursuant to Chapter 2161 of the Government Code. If the list fails to identify a HUB in Brazoria County that provides the goods and services, then this requirement shall not apply. The price quotations listing the three (3) vendors and their quotations shall be entered into the financial software by the departments.

The Assistant City Manager/Chief Financial Officer is authorized to approve and enter into contracts for purchases of \$25,000 or less. The City Manager is authorized to approve and enter into contracts for purchases of \$50,000 or less.

For purchases of other goods and services more than \$50,000, the competitive sealed bidding provisions of state law shall apply to the purchase. Notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two (2) consecutive weeks in the local newspaper. The date of first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. The contract must be

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awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. In determining the best value the City may consider the following:

- (a) the purchase price;
- (b) the reputation of the bidder and of the bidder's goods or services;
- (c) the quality of the bidder's goods or services;
- (d) the extent to which the goods or services meet the City's needs;
- (e) the bidder's past relationship with the City;
- (f) the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities.
- (g) the total long-term cost to the City to acquire the bidder's goods or services; and
- (h) any relevant criteria specifically listed in the request for bids.

The bid specifications/bid package must state that the contract may be awarded to either the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. City Council approval is required for purchases greater than \$50,000.

LOCAL PREFERENCE

Additionally, under the following circumstances a bid may be awarded to a local bidder whose principal place of business is in the City and whose bid is not the lowest bid:

- (1) Chapter 271.905 of the Local Government Code states that the City may purchase goods from vendors whose principal place of business is located within the City of Alvin, and whose bid price is within 3% from a non-resident vendor with the lowest bid.
- (2) Chapter 271.9051 of the Local Government Code states that the City may purchase services from vendors whose principal place of business is located within the City of Alvin and whose bid price is within 5% from a non-resident vendor who submitted the lowest bid for construction services less than \$100,000 or a contract for other purchases in an amount of less than \$500,000.
- (3) The City shall determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for

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the City created by the contract award -- including the employment of residents of the City and increased tax revenues to the City.

CONSTRUCTION SERVICES

Procurement of construction-related services shall be subject to the provisions of this section. If the expenditure will be \$50,000 or less the following requirements shall apply:

- (a) \$3,000 or less - the department may call one source and place an order;
- (b) More than \$3,000, but not exceeding \$50,000 - a minimum of three (3) price quotations shall be required. The price quotations listing the three (3) vendors and their quotations shall be entered by the user department when inputting requisitions in the financial software. Requisitions must be approved by appropriate levels assigned in the financial software system before the purchase order can be issued. User departments should enter as much detail as possible each time requisitions are created.

The Assistant City Manager/Chief Financial Officer is authorized to approve and enter into contracts for purchases of \$25,000 or less. The City Manager is authorized to approve and enter into contracts of \$50,000 or less.

If the purchase amount is greater than \$3,000 but less than \$50,000, the department must contact at least two (2) HUBs on a rotating basis based on information provided by the Texas Building and Procurement Commission pursuant to Chapter 2161 of the Government Code. If the list fails to identify a HUB in Brazoria County that provides the services, then this requirement shall not apply.

Except as otherwise provided herein, a procurement of construction-related services requiring an expenditure of more than \$50,000 must be obtained through competitive sealed bids. Notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two (2) consecutive weeks in the Alvin Sun. The date of first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. City Council approval are required for an expenditure of funds greater than \$50,000.

The City may enter into a contract with a developer of a subdivision or land in the City for the construction of public improvements, not including a building, related to the development. Competitive sealed bidding is not required for an expenditure \$50,000 or more if the City complies with the requirements of Chapter 212, Subchapter C of the Texas Local Government Code. (See developer participation contracts discussed in the section of this manual regarding exempt purchases).

A procurement of services for the construction, rehabilitation, repair or alteration of a facility that requires an expenditure of \$50,000 or more may be obtained using any of the following methods established in Chapter 2269 of the Texas Government Code:

- (1) competitive sealed bidding;

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- (2) competitive sealed proposals for construction services;
- (3) a design-build contract; or
- (4) a contract to construct, rehabilitate, alter or repair facilities that involves using a construction manager; or
- (5) a job order contract for the minor construction repair, rehabilitation or alteration of a facility (for work of a recurring nature where deliver times are indefinite and indefinite quantities and orders are awarded substantially on the basis of prescribed and prepaid tasks).

The Department Head and/or the City Manager shall determine which method will provide the best value for the City prior to advertising the project. The City will publish notice of the time and place the bids, proposals or responses to a request for qualifications will be received and opened. The notice will be published in the official newspaper once each week for at least two (2) weeks before the deadline for receiving bids, proposals or responses to a request for qualifications. In a two-step procurement process the time and place the second step bids, proposals or responses will be received are not required to be published separately. State law establishes additional requirements and procedures for the methods of procurement set forth in (2) - (5) above. The City Attorney must be consulted with respect to such procurement methods.

The City may consider the following factors in determining to whom to award the contract for construction, rehabilitation, repair or alteration of a facility:

- (a) the purchase price;
- (b) the reputation of the vendor and of the vendor's goods or services;
- (c) the quality of the vendor's goods or services;
- (d) the extent to which the goods or services meet the City's needs;
- (e) the vendor's past relationship with the City;
- (f) the impact of the ability of the City to comply with rules relating to historically underutilized businesses;
- (g) the total long-term cost to the City to acquire the vendor's goods or services; and
- (h) any other relevant factor specifically listed in the request for bids or proposals.

Under the provisions of Chapter 302 of the Local Government Code, the City may enter into contracts for energy or water conservation measures to reduce energy or water consumption or operating costs of governmental facilities by utilizing the request for qualifications method (Chapter 2254, Government Code) or a request for proposals method. Contracts authorized under Chapter 302 of the Local Government Code include contracts for the installation or implementation of:

- (1) insulation of the building structure and systems within the building;
- (2) storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;
- (3) automatic energy control systems, including computer software and technical data licenses;

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- (4) heating, ventilating, or air conditioning system modifications or replacements that reduce energy or water consumption;
- (5) lighting fixtures that increase energy efficiency;
- (6) energy recovery systems;
- (7) electric systems improvements;
- (8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (9) water-conserving landscape irrigation equipment;
- (10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - (a) landscape contouring, including the use of berms, swales, and terraces; and
 - (b) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
- (11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
- (12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
- (13) equipment needed to capture water from non-conventional, alternate sources, including air conditioning condensate or gray water, for non-potable uses;
- (14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
- (15) other energy or water conservation-related improvements or equipment, including improvements or equipment related to renewable energy or non-conventional water sources or water reuse.

City Council approval is required for all expenditures greater than \$50,000 for any construction projects.

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PROCEDURES TO COMPLETE BID PACKETS

After each bid is awarded, the following documents shall be submitted to the City Clerk's office as one packet:

1. **AUTHORIZATION TO BID** – For each item being bid, the City Clerk needs to be notified. Authorization to bid is usually the budget request description submitted before the budget was adopted.
2. **EVIDENCE OF TIMELY RECEIPT OF BIDS** – The City Clerk should note on each bid packet received, the date and time received. This information will be transferred onto the actual bid document after opening and retained in the electronic bid file. The bid file/documents will be scanned and stored electronically in Laserfiche. The paper documents submitted will be discarded.
3. **BID TABULATION** – The bid tabulation should accompany the agenda commentary to the Council Meeting. The bid tabulation should be a short summary of the bids.
4. **COUNCIL APPROVAL** – The City Clerk will copy the minutes when a bid is approved and retain this information in the bid file.
5. **COPY OF ADVERTISEMENT** – The City Clerk shall retain the affidavit from the newspaper when an item has been advertised for bids.
6. **NOTICE OF PUBLICATION** – Same as (5) above.
7. **AWARD LETTER** – The department responsible for the bid shall send an award letter immediately following the Council Meeting at which the contract was awarded and shall forward a copy of this letter to the City Clerk for the bid file.

CHANGE ORDER

A contingency factor or amount should be included in major project requests for bids or proposals issued by the City. Should a contingency factor or amount not be sufficient or changes in scope of the work occur after an approved contract, the department must request a change order. Change orders up to \$50,000 may be approved by the City Manager. Change orders in excess of \$50,000 must be approved by the City Council. However, at no time shall a change order be approved for an increase of more than 25% of the original contract amount. (Local Government Code 252.048; 271.060)

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STATE APPROVED METHODS OF SATISFYING COMPETITIVE BID REQUIREMENT

Notwithstanding anything in this Manual to the contrary, the City may satisfy the competitive bid requirement of state law by purchasing goods and services through any of the following:

- (a) the Texas Building and Procurement Commission (formerly the General Services Commission);
- (b) the Houston-Galveston Area Council Cooperative Purchasing Program (HGAC);
- (c) the Texas Local Government Purchasing Cooperative (The Buyboard);
- (d) an Interlocal Agreement with another governmental entity that has complied with state law purchasing requirements;
- (e) The Texas Procurement Center
- (f) The Interlocal Government Purchasing System (TIPS)
- (g) The Texas-Arkansas Purchasing System (TAPS); and
- (h) any other agency/entity that state law provides will satisfy the competitive bid requirements.

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REQUISITIONS

A requisition is a formal request to make a purchase. Requisitions for emergency purchases or purchases made because of unforeseen circumstances must be submitted within three (3) working days after the purchase.

The requisition shall provide a complete description of the goods or services the department wants so that the desired item or items and/or services can be obtained without unnecessary delays. All relevant information related to the transaction should be entered and scanned into the financial software.

The requisition must be approved by: 1.) the department head, if the purchase of the good or service does not exceed \$3,000; 2.) the Assistant City Manager/Chief Financial Officer, if the purchase of the good or service is more than \$3,000, but does not exceed \$25,000; and 3.) the City Manager, if the purchase of the good or service does not exceed \$50,000; and 4.) the City Council, if the purchase of the good or service is greater than \$50,000.

PROCESSING THE REQUISITION

All requisitions must be verified for accuracy, authorization, and availability of funds. The requisition-approving parties should:

- (1) Check the requisition for completeness.
- (2) Check computations (total price, etc.) for reasonableness.
- (3) Verify contract provisions (if on an existing contract).
- (4) Verify the authorization (if not approved by a department head).
- (5) Check line item budget balance for sufficient unencumbered amount to cover the purchase and applicability to line item.

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SPECIFICATIONS

This section outlines the purpose and preparation of specifications.

1. A specification is a description of the physical, functional or performance characteristics of an item, supply or service. The specification is used to enable bidders to propose the proper goods or services, and assist the City in obtaining goods or services that will be appropriate to the City's needs.
2. Design specifications - detailed description of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed for the provider to produce an item of minimum acceptability. Design specifications are usually required for construction projects and custom produced items and for many services.
3. Performance Specifications - where the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability and recommended practices.
4. Combination Specifications - contain elements of both design and performance specifications. Some features of each are included to allow a vendor to use ingenuity to meet the performance needs of the City and also to require certain necessary design characteristics. This is probably the most common type of specifications.
5. Brand Name Specifications - this type of specification is simply a reference to one or more acceptable brand names. Since this type of specification discourages competition, it should not be used unless the item is the only one which will satisfy the City's requirement. This type of specification is useful for purchasing replacement parts where only the brand name item will work.
6. Brand Name or Equal Specifications - similar to brand name specifications, except that products equal to the characteristics of the named brand are specified as acceptable.
7. Qualified Products List Specifications - based on a list of products, identified by manufacturers' name and model numbers, which are the only items which will be acceptable or when reordering to maintain commonality. These are used when quality is such a critical factor and testing so lengthy or expensive that the City wants to stay with proven products. The list is prepared by testing products, whether in the lab or in daily use. Items may be added to the list by the vendor demonstrating their quality in comparison to those on the list.
8. Standard Specifications - a single specification for one or more goods/services that are ordered on a recurring basis and that have the same general purpose. The same specification is used each time an order is placed or bids are advertised. Examples are office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more complete and detailed than one-time specifications.

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RECEIVING BIDS/PROPOSALS

Receiving competitive bids and proposals must be done in a manner such that no possibility of favoritism or even the appearance of favoritism exists. Here are some steps that can be taken to accomplish this:

1. Each bid or proposal shall be returned to the City Clerk's office in a separate envelope, sealed and with the bid or proposal identified as bid/proposal marked on the outside of the envelope. Only one bid/proposal will be allowed per envelope. If more than one bid is submitted, the vendor/bidder must use separate envelopes for each one.
2. The bid/proposal envelope shall be time and date stamped as soon as it is received at the City Clerk's Office.
3. The bid/proposal envelope shall be filed unopened until the scheduled bid opening date.
4. Bids/proposals shall be opened at the time and place specified in the invitation/request.
5. The following are grounds for disqualification:
 - unsigned bid/proposals, or bids/proposals with unauthorized signatures.
 - bids/proposals received after the date and time for opening. Late bids/proposals cannot be considered for award of the purchase.
 - bids/proposals where prices are conditioned on award of another bid, or when prices are subject to unlimited escalation. If allowed by the specification, prices may be subject to escalation based on an independent wholesale index (e.g., for oil and gas products, the net terminal price, or current Oil Price Information Service prices).

Bids and proposals are awarded by the Alvin City Council. The City Council must have reliable evaluations of the bids or proposals in order to make an informed decision about which to accept.

The staff of the user department can make this task easier by providing tabulations, calculation checks, information about compliance with specifications and price extensions. The staff shall also make the recommendation with concurrence by the City Manager based on the merits of each bid/proposal.

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BID TABULATION

1. After a bid opening, bids are tabulated and evaluated by the user department. At this time, there will be an "apparent low bidder". The low dollar bid however, shall not necessarily constitute the successful bid. There may be a number of other factors which may cause another bid to be selected. Two (2) common ones are shown below:
 - (a) Conformity to specifications - An item/service bid must conform to the specification. Minor irregularities may be waived; however, this is not to be interpreted that an item may be accepted which does not meet minimum specifications. Waiving of informalities will be determined by the user department with advice from the City Attorney.
 - (b) Best value - If applicable the City may consider the factors set forth in Chapter 252 of the local Government Code for determining the best value.
2. Responsibility for Evaluation – The final responsibility for bid evaluations rests with the requesting departments. The recommendation with the attached evaluation will be forwarded to the City Manager for his concurrence. The City Council, during a city council meeting will take the action whether to accept or reject the bid/proposal.
3. Alternate Bids - It will be appropriate to accept more than one bid from a vendor as long as the bids meet or exceed specifications.

PURCHASE ORDERS

Purchase Orders are used to affect an agreement between the City of Alvin and the vendor/supplier. Before a purchase can be issued, a requisition has to be entered and approved by all appropriate levels of authority in the financial software. Once the purchase order is approved, the financial system encumbers the funds available; which provides the optimum budget control tool.

CHECK REQUESTS

A check request is a method of payment which does not use a purchase order. It is not an option to by-pass the purchase order process. It is used for specific purposes such as payment of dues and memberships, payment of contract employee services, travel advances, reimbursement of travel expenses, advertisements, special printing, and payment of utility bills.

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The request form must be filled out completely and the proper documentation of payment attached for audit verification of the transaction. It must be signed by the department head or the authorized designee.

PETTY CASH

Petty cash may be used to make small cash disbursements.

The Department Head or their designee shall be the custodian of the petty cash account; and shall be responsible for the safekeeping of the petty cash. Only the custodian and department head shall have access to the petty cash; which should be located in a secure area.

Petty cash will be periodically audited by the finance staff.

Procedure for requesting petty cash:

1. A request shall be made by the department head for a petty cash account.
2. The Assistant City Manager/Chief Financial Officer or designee shall evaluate the request, and if justification warrants, shall cause the petty cash account to be created.
3. A check will be made payable to the City of Alvin, the name of the Department, Petty Cash Account.
4. Reimbursements for petty cash shall be made only for approved purchases as outlined in this Manual. The petty cash ticket must be completed in duplicate and signed by the departmental custodian and the employee receiving the cash. The original voucher is attached to the check request to replenish the fund. The duplicate copy will be filed by the custodian.
5. The petty cash account should be reconciled on a monthly basis. The departmental custodian shall prepare a check request to replenish the account, when necessary.

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DISPOSAL OF CITY PROPERTY

Unclaimed and Abandoned Property

The City shall dispose of unclaimed or abandoned property according to the specific state statutory provision that is applicable. Such property includes the following:

1. Contraband property and alcoholic beverages subject to seizure under the Texas Code of Criminal Procedure;
2. Property seized by a City of Alvin Police officer and held for evidence, destroyed or returned to the person entitled to receive such property.
3. Other property the disposal of which is governed by state law.

Surplus or Obsolete City Property

Before a department removes any property from service, the Department Head shall first determine if it can be transferred to another city department for continued service. If it is determined that a property item is no longer serviceable to the City, the Department Head shall request permission from the City Manager or designee to dispose of the item.

Items may be disposed by one of the following methods:

- Public auction
- Trade-in on new equipment
- Sealed Bids (standard bidding procedure shall apply)
- Scrap material, taken to recycling center by user department
- Destruction as unsalvageable; or
- Negotiated price, approved by City Council

In addition to the methods of disposal as listed above, the City may contract to convey property either to another governmental entity or a non-profit corporation providing that such entity or corporation agrees to use such equipment for public purpose.

The condition of the item to be salvaged or surplus shall dictate the most advantageous method of disposal.

INSURANCE REQUIREMENTS

Whenever the City contracts with an outside party (contractor, consultant, vendor, or concessionaire) for goods or services, the bid or request for proposal that is released to the public should include an indemnity clause (hold harmless clause), along with a contractual agreement, to be executed upon award of the contract, that transfers the risk of the project from the City to

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the contractor. Because the contractor may or may not have the financial resources to handle the risks that are transferred in the contract, the City requires that insurance be purchased and maintained by the contractor for financial security.

Most contracts are tailored for individual projects and programs; therefore, certain elements of the insurance required should be addressed in every contract document. One of the most important elements is the actual insurance coverage, which includes the coverage types, and limits that are dependent upon the nature of the project/program. A summary of the various types of policies and the coverage they provide is illustrated in the “Insurance Requirements of Contracts” section of this Purchasing Manual.

Although not all of the coverage are required for every project (and limits will vary by exposure), and understanding the coverage provided by these policies is important to assure that all of the City’s potential liabilities and exposures from the project are properly protected.

EXCEPTIONS TO INSURANCE REQUIREMENTS

Periodically, the City will need to contract for small projects that attract only the smaller contractor who, typically, does not carry any insurance except automobile and truck coverage (as required by State law). In order to complete these projects, Commercial General Liability Insurance may be waived providing the project meets the following criteria:

- (a) The cost of the project (including maintenance projects) is less than \$5,000.
- (b) The work performed will not be in public areas or will be performed after closing hours. Contractors hired for electrical, or other hazardous projects must always be insured. Projects that are on or adjacent to public streets may or may not be insured at the discretion of the Department Head.
- (c) Commercial general liability insurance coverage will always be required if the work will be done under the direction or supervision of a City employee.
- (d) Auto/Truck Liability Insurance is required if the contractor’s vehicles are used in the execution of these small projects (this is required by state law). The City may accept the State’s minimum limits and waive the additional insured requirement. The contractor must provide the City with proof of insurance before beginning work.

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WORKERS' COMPENSATION INSURANCE

BUILDING and CONSTRUCTION PROJECTS

The Texas Labor Code 406.096 (a) & (b) requires contractors and subcontractors hired for building and construction projects with a governmental entity in Texas to provide workers' compensation (w/c) insurance for their employees regardless of the cost of project. The Texas Labor Code defines building or construction as:

- (a) Erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (b) Remodeling, extending, repairing, or demolishing a structure; or
- (c) Otherwise improving real property or an appurtenance to real property through similar activities.

PROOF OF INSURANCE

Prior to commencing work, the contractor must provide proof of insurance for those coverages required by the City.

INSURANCE REQUIREMENTS OF CONTRACTS

TYPE OF INSURANCE	AMOUNT OF INSURANCE
Workers' Compensation	Statutory Limits
Employers' Liability to include:	
a.) Each accident	
b.) Disease policy limits	Each accident \$100,000
c.) Disease each employee	Bodily injury by disease policy limits \$500,000 Bodily injury by disease (employee) \$100,000
Commercial General (Public) Liability to include coverage for:	
a.) Premises/Operations	Bodily injury per person \$1,000,000
b.) Independent Contractors	Bodily injury per occurrence \$2,000,000
c.) Personal Injury	Property damage per occurrence \$1,000,000
d.) Products/Compete Operations	Property damage with general aggregate \$2,000,000
e.) Contractual Liability	
Business (Commercial) Automobile Policy	Combined Single Limit \$1,000,000

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The preceding amounts notwithstanding, the City reserves the right to increase the minimum required insurance to be effective thirty (30) days after notice is sent to the address provided herein. The Contractor may pass through to the City all costs for obtaining the increase in the insurance coverage.

OTHER INSURANCE REQUIREMENTS

The Contractor understands that it is its sole responsibility to provide the required Certificate and that failure to comply within 10 days after notice of award and according to the requirements of this article shall be a cause for termination of this Contract.

For any pesticide spraying performed, the City of Alvin will require the successful bidder to carry Pollution Liability Insurance and Environmental Impairment Liability Insurance.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

The Contractor further agrees that with respect to the above required insurances, the City shall:

- (1) Be named as additional insured/or an insured, on all required insurance except workers' compensation.
- (2) Be provided with a waiver of subrogation, in favor of the City on all required insurance.
- (3) Be provided with an unconditional 30 days advance written notice of cancellation or material change.
- (4) Prior to execution of this Agreement, be provided through the office of the City Secretary with either their original Certificate of Insurance or their insurance policy evidencing the above requirements. Thereafter, new certificates or copies of the policies shall be furnished prior to the expiration date of any prior certificate.

INDEMNIFICATION

Contractor agrees to defend, indemnify, and hold the City of Alvin and all of its officers, agents, employees, and elected officials whole and harmless against any and all claims for damages, costs, and expenses of persons or property that may arise out of, or be occasioned by, or from any negligent act, or omission of Contractor, or any agents, servant, or employee of Contractor in the execution of performance of this contract, without regard to whether such persons are under the direction of City agents or employees.

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Contractor further agrees that it shall at all times exercise reasonable precaution on behalf of, and be solely responsible for, the safety of its officers, agents, employees, subcontractors, licensees, invitees, and other persons, as well as their property, while in the vicinity where the work is being done. It is expressly understood and agreed that City shall not be liable or responsible for the negligence or other fault of Contractor, its officers, agents, employees, subcontractors, licensees, invitees, or other persons associated with Contractor.

Contractor acknowledges to defend, indemnify, and hold the City and all of its officers, agents, employees, and elected officials whole and harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, materialism, and furnishers of supplies, equipment, financing, or any other goods or services, tangible or intangible. When the City so desires, Contractor shall furnish satisfactory evidence that all obligations of the nature described here have been paid, discharged, or waived.

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TEXAS LAW

This purpose of this section is to provide a common sense, layman's-language explanation of the purchasing statutes in the State of Texas. It is not a legal brief, or a legal text. There is a need to read the specific statute for details. It is always difficult to decide when an item should or should not be bid.

There is sometimes an option to use a competitive sealed proposal instead of a competitive sealed bid. It is recommended that in any doubtful situation, the City should consult with the City Attorney.

Texas purchasing law is located in a number of places in the statutes.

City purchasing is primarily in Chapter 252 of the Local Government Code.

Statutes pertaining to both cities, counties and other types of local governments, can be found in Chapter 271 of the Local Government code.

Provisions regarding conflicts of interest by local government officials are found in Chapter 171 of the Local Government Code.

Other statutes pertaining to purchasing or contracting are in Vernon's Civil Statutes or in other parts of Vernon's Texas Codes.

The following is a list of some of the State statutes to help users of this manual locate specific references in the law:

1. Government Code

Chapter 2251	Payment for Goods or Services
Chapter 2252	Contracts with Governmental Entity
Chapter 2253	Public Work Performance and Payment Bonds
Chapter 2254	Professional Services Procurement Act
Chapter 2258	Prevailing Wage Rates for Public Works Construction Contracts

2. Property Code

Chapter 74	Report, Delivery and Claims Process
Chapter 76	Report, Delivery and Claims Process for Certain Property

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3. Local Government Code

Chapter 140	Miscellaneous Financial Provisions Affecting Municipalities, Counties and Other Local Governments
Chapter 171	Regulation of Conflicts of Interest of Officers of Municipalities, Counties and Certain Other Local Governments
Chapter 176	Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information
Chapter 252	Purchasing and Contracting Authority of Municipalities
Chapter 253	Sale or Lease of Property by Municipalities
Chapter 271	Purchasing and Contracting Authority of Municipalities, Counties and Certain Other Local Governments
Subchapter A	Public Property Finance Act
Subchapter B	Competitive Bidding on Certain Public Works Contracts
Subchapter C	Certificate of Obligation Act
Subchapter D	State Cooperation in Local Purchasing Programs
Subchapter H	Alternative Project Delivery Methods for Certain Projects
Subchapter Z	Miscellaneous Provisions
Chapter 272	Sale or Lease of Property by Municipalities, Counties and Certain Other Local Governments

4. Human Resources Code

Chapter 122	Committee on Purchases of Products and Services of Blind and Severely Disabled Persons
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5. Code of Criminal Procedure

Chapter 18, Article 18.17	Disposition of Abandoned or Unclaimed Property
Chapter 59	Forfeiture of Contraband