



GILLESPIE COUNTY PURCHASING POLICY

Adopted by Commissioners Court
October 15, 2020

INTRODUCTION

This Policy Manual contains an overview of the purchasing process to be used by Gillespie County officials and employees after implementation of the Incode 10 Financial System. The Gillespie County Commissioners Court has authorized and approved its contents, and only the Commissioners Court shall revise and/or change the requirements presented in this manual.

County purchasing is governed by Texas statutes; and these statutes, including interpretations of them by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the information described herein is based on State law, this manual, in many instances, contains language taken directly from statutes. Paraphrases of and broad generalizations about Texas statutory law have also been included where appropriate to assist in applying the law to routine situations.

The provisions contained within this manual are not intended to be all inclusive. Rather, it is intended to set forth policies relating to those most frequently encountered. This manual does not create any rights of individuals or entities enforceable against Gillespie County.

STATEMENT OF GENERAL POLICY

The Purchasing Policy of Gillespie County is established to provide the County with a transparent procurement process that has the following objectives:

- To obtain goods and services as economically as possible
- To obtain high quality goods and services that meet the County's needs
- To ensure timely delivery of goods and services thus avoiding interruptions of governmental operations
- To ensure that purchasing procedures conform to the County Purchasing Act, other State purchasing statutes, and County policies
- To maintain strict budgetary compliance in spending County funds

Gillespie County intends to maintain a cost-effective purchasing system adhering to good management practices and all applicable laws. To be successful, the system must be backed by proper attitudes and cooperation of not only every Department Head and Elected Official but all Gillespie County employees. The establishment and maintenance of a good purchasing system is possible only through the cooperative effort of everyone.

Lack of active participation in the system described herein will result in delays in the purchasing process as well as the vendor payment process. Noncompliance with this policy will be viewed as noncompliance with State statute requirements and the disregard of the County Purchasing Act (Local Government Code Sec 262) may even result in individual misdemeanor charges. The use of County purchasing cards to circumvent this policy will not be allowed and such practice will lead to suspension and/or cancellation of purchasing cards.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

GUIDING PRINCIPLES OF PURCHASING

It is the policy of Gillespie County that the following ethical principles govern the conduct of every employee and official involved, directly or indirectly, in the County procurement process. Public employees and officials must discharge their duties impartially so as to assure fair competitive access to County procurement by responsible vendors. Moreover, public employees and officials should conduct themselves in such a manner that fosters public confidence in the integrity of the Gillespie County procurement process.

Employees and officials shall avoid the appearance of impropriety and always act in the best interest of Gillespie County. It shall be a breach of ethics for any employee of Gillespie County to participate directly or indirectly in a procurement when the employee knows that:

- The employee/official or any member of their family has a financial interest in the results of the County procurement process;
- A business or organization in which the employee/official or member of their family has a financial interest pertaining to the procurement; or
- Any other person, business, or organization with whom the employee/official or member of their family is negotiating for or has an arrangement concerning prospective employment.

If a potential or actual conflict of interest exists, the employee or official shall promptly notify the County Auditor in writing and remove himself or herself from the County procurement process.

Employees and officials shall not solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors that might influence or appear to influence a purchasing decision. Generally, goods or services with a value of \$100 or less in the aggregate from a vendor during the year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision.

PURCHASING AUTHORITY AND GENERAL GUIDELINES

Authority to review and approve County purchases in regards to compliance with policy guidelines, statutory law, adequate budget and proper accounting resides in the Auditor's office. Individual departments are responsible for purchasing supplies, materials, repairs and maintenance, and capital equipment according to their budgets and the approvals as established by this Commissioners Court policy. The following approval guidelines have been set for the purchasing process; however, all payments of related invoices are reviewed and approved by Commissioners Court regardless of the amount:

<u>Amount of Purchase</u>	<u>Approval Required</u>
\$0.00 - \$199.99	Authorized to purchase without prior approval (no requisition or purchase order required).
\$200.00 - \$999.99	Requires Elected Official/Department Head approval of requisition with system generated Purchase Order.
\$1,000.00 – 4,999.99	Requires Elected Official/Department Head approval of requisition and an Auditor approved Purchase Order.
\$5,000.00 - \$50,000.00	Requires quotations from at least two vendors, Elected Official/Department Head and Commissioners Court approval of requisition, and an Auditor approved Purchase Order.
Over \$50,000	Requires formal sealed competitive bids as specified by Chapter 262 of Texas Local Government Code, Commissioners Court approval, and an Auditor approved Purchase Order. Provided, however, that if the purchase may be exempt pursuant to state or federal law, then formal sealed competitive bids may be waived by Commissioners Court.
Cooperative Purchases	Requires an Auditor approved Purchase Order with requisition approvals as stated above but quotes/bids are not required.

Specific goods and services are exempt from the requisition/purchase order process. These include:

- Fuel Card Purchases
- Contracted Services (e.g. Southern Health Partners, UniFirst)
- Court Ordered Vouchers
- In-State Hotel Reservations
- Travel Reimbursements
- Inmate and Indigent Medical Expenses
- Legal Notices
- Utility Bills (including telephone)
- Insurance Premiums
- Leases
- Emergency Purchases

Approvals, however, will still be required before invoices for these items are processed and paid. **All contractual obligations (such as contracted services, leases, and insurance) must be approved by Commissioners Court and signed by the County Judge, or such other individual as may be authorized by Commissioners Court, prior to initiating such services and beginning the payment process.**

REQUISITION / PURCHASE ORDER PROCESS

A Requisition is required for most purchases in Gillespie County (Local Gov. Code Section 113.901).

The purpose of a requisition is: (1) to inform the Auditor's office of the needs of the requesting department; (2) to identify correctly and clearly the material requested; and, (3) to document the approval for the purchase of goods and services requested. Requisitions must be prepared well in advance to enable the required approvals and the Auditor's Office review before issuing a purchase order.

The requisition/purchase order process is an integral part of the financial system and of financial accountability. A Requisition places a reservation on the budget to help prevent over spending of a budgeted item. Once the Requisition is approved and converted to a Purchase Order, the reservation is released and the budgeted funds are encumbered (put on hold) for the total amount of the expense.

EMERGENCY PURCHASES

Emergency purchases are authorized by grant of Commissioners Court in extremely limited circumstances: (1) in the event of public calamity for the benefit of the County citizens or to protect public property; (2) in order to protect the public health or safety of County residents; and, (3) in the case of unforeseen damage to public property. Prior approval of such purchases by the Commissioners Court is required. Once authorized by Commissioners Court, the emergency expenditure is added to the original adopted budget by amendment and filed with the County Clerk.

SOLE-SOURCE PURCHASES

An item valued in excess of \$50,000, which would otherwise be purchased by competitive bidding, may be purchased without the necessity of bidding if it is available from only one source. Typical items in this category include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts or components for equipment, and films, manuscripts or books. Such items may be purchased from a sole source without competitive bidding only after the department certifies in writing the existence of only one source to the Commissioners Court and the Court enters a finding of such in the Court minutes.

PURCHASING CARD PROGRAM

The purpose of the purchasing card program is to provide Gillespie County with an efficient, controllable and cost-effective method of purchasing and paying for small dollar commodity, service, supply, and travel purchases. The County will issue cards via JPMorgan Chase. The card will be primarily used in place of petty cash, small regular purchase orders, over-the-counter account purchases (charge accounts), emergency purchase orders, and any other credit cards. The purchasing card program is a supplement to this purchasing policy. If used to its potential, the purchasing card will result in a significant reduction in the volume of purchase orders and related documentation including invoices and checks.

As a public entity, the County is expected to be able to demonstrate to the public that it has spent their tax dollars wisely. All participants in the purchasing card program are responsible for insuring purchases made with the card are in accordance with the terms and conditions of this and all other policies of Gillespie County.

INSPECTING, TESTING, AND RECEIVING

Each County department is responsible for receiving and inspecting all orders to verify the following:

- the correct items were received (based on order)
- the shipment was in good condition
- the correct quantity was received (no shortages or back orders)
- the services were performed in a satisfactory manner

If a shipment is not acceptable, incomplete, or damaged, it is the responsibility of the user department to contact the vendor and the Auditor's Office for appropriate action.

ROLES AND RESPONSIBILITIES

County Departments

The role of the County departments (which shall be inclusive to mean all elected officials, department heads, and employees) shall ensure that while procuring goods or services they get the best value, follow state purchasing law, and follow any applicable state or federal purchasing guidelines as applicable to the source or use of funds.

Purchase Requisitions

Departments will initiate purchase requisitions when required and input the information into the system or contact the Auditor's Office for assistance. (See Texas Local Government Code Sec. 113.901)

Compliance with the Law

All departments shall comply with state laws regarding procurement, including but not limited to the County Purchasing Act, and to all state and federal grant requirements.

Departments need to recognize that using purchasing strategies designed to avoid formal competitive bidding such as component purchases (purchasing in pieces rather than purchasing as a whole), separate purchases (purchasing goods in a series of separate purchases that normally would have been combined) and sequential purchases (purchases made over a period of time that would normally have been made as one purchase) violates State law.

Ethical Procurement

Purchasing shall be done using the highest ethical standards. Neither use of their position nor personal influence shall be used to secure special privileges, prices, or exemptions for themselves or others.

Contracts should be awarded based on demonstrated competence and lowest cost to the County. If a conflict of interest exists, departments shall notify the County Auditor of a business or personal relationship with a prospective vendor in writing and remove themselves from the procurement process.

Purchasing for Grants

The department that was awarded the grant is responsible to adhere to all procurement guidelines, policies, and procedures in the application, assurances, award, and documentation of the state or federal grant.

Departments must strictly adhere to all procurement requirements of federal grants, programs, or allocations noted in the Circular OMB A-133 and supplements as applicable by the Catalog of Federal Domestic Assistance (CFDA) Number. The CFDA number is provided for all federal funding sources. Where specific procurement direction is not provided for in OMB A-133 or supplements, the department shall abide by the "common rule" which is published by each separate federal agency.

Departments must document that any person, vendor, or its principals who are paid using a federal or state grant, program or allocation is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal or State department or agency from doing business with the Federal or State Government. The department shall "check debarment status on the web" by going to the federal website <https://www.sam.gov/SAM/> to see if a vendor is on the government list of debarred vendors. When checking for a debarred individual, conduct the search by typing the name in the top bar. Entities with "Exclusion" listed in purple are currently debarred, while those labeled "Entity" in green do not have exclusions. The department shall also "check debarment status on the web" by going to the state website <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php> to

see if a vendor is on the State of Texas debarred vendor list.

In order to demonstrate compliance with grant procurement requirements and conditions, the department must document and keep records that provide evidence of compliance for all grant purchases.

Inventory of Controlled and Capital Assets

Departments shall work with the County Auditor and the third party contractor to facilitate the inventory of County controlled and capital assets and ensure that these assets are tagged with the County's identification number.

Professional and Personnel Services

Departments shall purchase professional and personal services in accordance with law and any state or federal procurement guidelines, policies, or procedures.

County Auditor

The County Auditor will assist departments in the purchasing of goods and services in accordance with the bidding procedures and the needs of the County departments. The bidding procedures for goods and services for the County are set forth in the Texas Local Government Code Chapter 262 and Chapter 271.

Requisitions and Purchase Orders

The Auditor's Office will assist departments with the preparation of requisitions and will issue purchase orders that encumber (hold) funds within a department's budget for that purchase.

Assist Departments with Competitive Bidding

If a department decides that a competitive bid will best meet their needs, then the department will provide technical specifications to ensure that the purchase meets their needs. The Auditor's Office will incorporate the technical specifications with general terms and conditions to develop a complete bid package.

Assist Departments with Cooperative Purchasing Contracts and State contracts

In meeting the competitive bidding requirements, the departments may make purchases through existing state contracts or other cooperative purchasing contracts. The Auditor's Office will assist the departments in placing orders (to ensure compliance with each of the programs requirements) and will verify the order with the department prior to placing the order (to ensure the correct order and pricing).

Compliance

The Auditor's Office will periodically check departments to ensure that they are following Gillespie County, State, and Federal procurement guidelines, policies, and procedures in spending taxpayer funds. The Auditor's Office shall work with departments to monitor vendor compliance with contract terms and conditions, quality of goods or services, and timely renewal or re-bid.

Purchasing Recommendations

The Auditor's Office shall work with the department and make recommendations on contract awards to Commissioners Court for purchases supervised through the competitive purchasing process exceeding \$50,000 in the aggregate.

Controlled and Capital Assets

The Auditor's office shall oversee the annual inventory process to account for acquisitions, transfers, sales, and disposals in accordance with law and County procedures.

LAWS GOVERNING PURCHASING

Laws that govern and may impact purchasing in given circumstances include, but are not limited to, the following:

Local Gov. Code Chapter 113 -- Approval of Claims by Auditor's Office

Each claim, bill, and account “against the county” must be filed with the Auditor’s office, allowing sufficient time for the auditor to “examine and approve” the claim before the meeting of the Commissioners Court at which it is to be approved. Such claim, bill, or account may not be paid or allowed until it has been “examined and approved” by the Auditor’s office {Section 113.064(a)}. The auditor may not audit or approve a claim unless the claim was “incurred as provided by law.”

The auditor may not audit or approve an account (i.e., claim) for the purchase of supplies or materials for the county unless a requisition properly signed by the officer ordering the supplies or materials and approved by the county judge is attached to the account {Section 113.901(a)}. The Commissioners Court may, by written order, waive the requirement that the County Judge approve requisitions. If this approval requirement is waived, all claims must be approved by the Commissioners Court in open court.

Local Gov. Code Chapter 171 -- Conflict of Interest

Ownership of certain property or business interests may require that a local public official refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision, or act involves the business interests or property owned by the public official or by a person related to the public official within the second degree of consanguinity or affinity.

“Local public official” includes members of the county governing body or other county officers, whether elected or appointed, paid or unpaid.

A person is deemed to have a substantial interest in a business entity if:

- (1) Ownership of ten percent (10%) or more of voting stock or shares of the business entity, or ownership of \$2,500 or more of the fair market value of the business entity; or
- (2) Proceeds received from the business entity exceed ten percent (10%) of the person’s gross income for the prior year.

A person is deemed to have a substantial interest in real property if the interest, whether involving equitable or legal ownership, has a fair market value equal to or exceeding \$2,500.

A local public official is deemed to have a substantial interest in the business entity or in land if a person related to the official within the second degree by consanguinity or affinity has a substantial interest in said business entity or land as defined above.

If the local public official has a substantial interest in a business that seeks to do business with the county, the official must file with the county clerk an affidavit stating clearly the nature and extent of his interest. The public official must then abstain from participation in any matter involving or between the County and the business in which he has the substantial interest. In particular, this

includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business, or contracts with the County. An official may not knowingly act as a surety on any official bond required of an officer of the County. A violation of any of these is a crime (Class A misdemeanor).

The County Commissioners Court may, however, contract for services or personal property with a business entity in which a member of the court has a substantial interest if the business entity (1) is the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners Court, and (2) bids on the contract.

The Commissioners Court must take a separate vote on any budget item that is specifically concerned with a contract involving a business entity in which a member of the Court has a substantial interest. The Commissioner having the substantial interest may not participate in that separate vote; he may, however, vote on the final budget if: (1) he has otherwise complied with the requirements of Local Gov. Code Chapter 171, some of which are indicated above, and (2) the matter regarding the business entity with which the member is concerned by virtue of his substantial interest has been resolved.

Local Gov. Code Chapter 262, Subch. A -- County Contracting Agent

The Commissioners Court may at its discretion appoint an agent with authority to contract on behalf of the county for (1) erecting or repairing county buildings; (2) supervising same; or (3) any other purpose authorized by law. Any contract or other act of such an agent that is properly executed on behalf of the County and is within the agent's authority is binding on the County for all purposes.

Local Gov. Code Chapter 262, Subch. C -- County Purchasing Act (Competitive Bidding)

Purchasing and contracting authority of the County is contained in Chapter 262 of the Local Government Code. This Act is the comprehensive county purchasing statute and includes:

1. Competitive bidding requirements, procedures, and exemptions;
2. An alternative competitive request scheme and proposal procedure for insurance or high technology items (see Section 262.030); and
3. Bond requirements for bidders.

The competitive bidding procedures must be strictly complied with except for certain specific exemptions enumerated in the statute. These include certain emergencies and cases involving sole suppliers. Failure to follow the bidding requirements of the act may subject the contract to injunction to prohibit its performance. See Section 262.033.

All separate, sequential or component purchases of items ordered or purchased by the same officer or department from the same supplier in any attempt to avoid the bidding requirements are treated as parts of a single purchase or contract { 262.023(c)}. Any county officer or employee who knowingly or intentionally makes or authorizes separate, sequential or component purchases in avoidance of the competitive bidding requirements commits an offense, and such offense is classified as a Class B misdemeanor. Automatic and immediate removal of the officer or employee from his county office or position results upon final conviction {262.034(a)}. Intentional or knowing violation of the subchapter, other than as described above in this paragraph is a Class C misdemeanor.

Local Gov. Code Chapter 263, Subch. D -- Disposition of Salvage or Surplus Property

Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

Surplus or salvage property may be sold by competitive bid or may be auctioned. It also may be offered as a trade-in on new property of the same general type. If the Commissioners Court undertakes to sell that property and is unable to do so, it may order any of the property to be destroyed or otherwise disposed of as worthless.

Local Gov. Code Chapter 271, Subch. D -- Purchase Under State Contract

The State Purchasing and General Services Commission may perform purchasing services for local governments (including counties). The County may participate by adopting a resolution. The contents required in the resolution are stated in the statute. A county that purchases under state contract satisfies all competitive bidding laws.

Govt. Code Chapter 2254 -- Professional Services Procurement Act

Counties may not bid contracts for professional services. These contracts instead must be awarded on the basis of “demonstrated competence and qualification for the type of professional services to be performed.” Fees must be “fair and reasonable,” consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law. “Professional services” includes services within the scope of the practice of: accounting, architecture, optometry, professional engineering; this includes services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or registered professional engineer in connection with his or her professional employment or practice.