

Procurement Procedures



**City of Kyle,
Texas**



TABLE OF CONTENTS

| | |
|------------------------------------------------------------------|----------|
| INTRODUCTION..... | 4 |
| PROCUREMENT CODE OF ETHICS..... | 6 |
| PROCUREMENT CYCLE..... | 8 |
| 1.0 PROCUREMENT PLANNING | 9 |
| 1.1 Benefits to Planning:..... | 9 |
| 1.2 Planning Prerequisites | 9 |
| 1.3 Best Practice for Specifications | 10 |
| 1.4 Initiating the Procurement | 10 |
| 2.0 SOLICITATION METHOD SELECTION | 12 |
| 2.1 Quotes..... | 13 |
| 2.2 Historically Underutilized Business (HUB)..... | 13 |
| 2.3 Invitation for Bid (IFB) (Goods and Services) | 13 |
| 2.4 Time Requirements..... | 14 |
| 2.5 Request for Proposals (RFP)..... | 14 |
| 2.6 Request for Qualifications (RFQ)..... | 15 |
| 2.7 High Technology Procurement | 16 |
| 2.8 Outside Legal Services | 16 |
| 2.9 Cooperative Purchases | 16 |
| 2.10 Emergency Purchases..... | 17 |
| 2.11 Definition of a Valid Emergency Purchase | 18 |
| 2.12 Ratification by the City Council..... | 18 |
| 2.13 Sole Source Documentation..... | 19 |
| 3.0 VENDOR SELECTION..... | 20 |
| 3.1 Bid Posting | 20 |
| 3.2 Advertising Requirements | 20 |
| 3.3 Pre-Bid/Pre-Proposal Conferences..... | 20 |
| 3.4 Bid/Proposal Specifications | 20 |
| 3.5 Statement of Work (SOW)/Technical Specifications..... | 20 |
| 3.6 Opening of Bids | 21 |
| 3.7 Evaluation of Responses | 21 |
| 3.8 Lowest Responsive and Responsible Bidder..... | 21 |
| 3.9 Best Value Bidder..... | 21 |
| 3.10 Identical Bids..... | 22 |
| 4.0 CONTRACT AWARD PROCESS | 23 |
| 4.1 Award of Contract..... | 25 |
| 4.2 Vendor Ethical Behavior..... | 25 |
| 4.3 Vendor Communications..... | 25 |
| 4.4 Bid Protest..... | 25 |
| 4.5 Title VI Requirements..... | 27 |
| 4.6 Bonds | 27 |
| 4.7 Insurance Requirements..... | 28 |
| 4.8 Change Orders to Existing Purchase Orders and Contracts..... | 28 |
| 5.0 CONTRACT MANAGEMENT | 29 |
| 5.1 Roles and Responsibilities..... | 29 |
| 5.2 Monitoring and Reporting..... | 29 |
| 5.3 Amendments and Modifications | 29 |
| 5.4 Payments and Invoices..... | 29 |
| 5.5 Contract Closeout | 29 |
| 5.6 Records Retention | 29 |
| 5.7 Dispute Resolution | 29 |
| 5.8 Training and Development..... | 30 |

TABLE OF CONTENTS

| | |
|------------------------------------------------------------------------------|-----------|
| ADDITIONAL PROCEDURES | 31 |
| 6.0 EXCESS/SURPLUS PROPERTY | 31 |
| 6.1 <i>Recycling Surplus Property</i> | 31 |
| 6.2 <i>Methods of Disposition of Surplus Property</i> | 31 |
| 7.0 CONTRACT REQUIREMENTS | 31 |
| 7.1 <i>Renewal of Contracts</i> | 31 |
| 7.2 <i>Bid Specification Development</i> | 31 |
| 7.3 <i>Purchase Requisition</i> | 32 |
| 7.4 <i>Orders Issued Without a Requisition/Contract/Purchase Order</i> | 32 |
| 8.0 DOCUMENT PROCESSING | 32 |
| 8.1 <i>Identify Funds</i> | 32 |
| 8.2 <i>Processing Time Frames</i> | 32 |
| 9.0 PURCHASE ORDERS (PO) | 33 |
| 9.1 <i>Invoices</i> | 33 |
| 9.2 <i>Legal Review</i> | 33 |
| 9.3 <i>Signature Authority</i> | 33 |
| 9.4 <i>Department Requirements</i> | 33 |
| 10.0 PROCUREMENT SCENARIOS | 33 |
| 10.1 <i>Competitive Bidding</i> | 33 |
| 10.2 <i>Professional Services Exemption</i> | 34 |
| 10.3 <i>Emergency Procurement</i> | 34 |
| 10.4 <i>Cooperative Purchasing</i> | 34 |
| 10.5 <i>Sole Source Procurement</i> | 35 |
| 10.6 <i>Public Safety Procurement</i> | 35 |
| 10.7 <i>Takeaways</i> | 35 |

INTRODUCTION

The Procurement Division of the Finance Department serves as the central authority for the development and implementation of procurement guidelines, education, and city-wide contract management for the City of Kyle. The primary objective of the Procurement Division is to enhance value and mitigate risks by fostering collaboration among Department officials, employees, and suppliers within a procurement process that is consistent, equitable, transparent, and effective. The information presented herein is intended to guide your efforts in the acquisition process, ensuring that purchases are made in accordance with the City's policies and the laws of the State of Texas.

This manual focuses on the implementation of [Title 8](#) of the Local Government Code and [Title 10](#) of the Texas Government Code, with additional procurement authority discussed to provide a broad understanding of commonly used procurement methods. However, it is not intended to be an exhaustive reference. The policy section outlines the governing rules and regulations, while the procedures section provides practical application of these rules.

The content of this manual is structured to align with the procurement activities outlined in the Procurement Cycle, facilitating a clearer understanding of the roles and responsibilities of City of Kyle employees throughout the procurement process. A distinction is made between procurement and purchasing in this manual. "Procurement" refers to comprehensive sourcing activities, including drafting and issuing solicitations, evaluating responses, selecting successful respondents, negotiating contracts, and purchasing goods or services. In contrast, "purchasing" pertains to the administrative process of ordering goods and services, representing a transactional component of the broader procurement activity.

This manual references relevant state and local statutes, as well as administrative rules issued by the state, to support its guidance and includes essential and recommended contract clauses. Departments must adhere to these guidelines unless exempted by applicable law. However, while this guide serves as a reference for the implementation of procurement laws, it does not encompass every statute, rule, or standard that may apply to a particular transaction. Furthermore, this guide is not intended as a comprehensive resource on contract law nor does it offer legal advice. Departments are expected to consult with the Procurement Division for purchasing activities that exceed the thresholds specified in this manual.

The manual also includes non-statutory guidance aimed at promoting fair competition, transparency, integrity, fiscal responsibility, and the other core values underlying the statutory procurement system.

This document serves as an introduction to the essential principles of purchasing goods and services on behalf of the City of Kyle. It reflects best practice procurement methods and will be updated as applicable laws and practices evolve. The Procurement Procedures serve as a companion to the City of Kyle Procurement Policies, governing procurement in the City of Kyle.

The Procurement team is a division of the Finance Department and should be included in all stages of acquisition, through planning, ordering, and receiving. Procurement staff issues purchase orders (POs) and bids, and/or negotiates and executes contracts to deliver goods and services in a timely manner, to ensure compliance with the State of Texas competitive bid statutes and the City's procurement policy.

THE GENERAL DUTIES OF THE PROCUREMENT DIVISION ARE AS FOLLOWS:

1. Observe and enforce the policy and procedures outlined in the City of Kyle Procurement Policy or as directed by the City Manager or his/her designee.
2. Advise and assist in the formulation of policies and procedures connected with the purchasing activities of the City and keep the Director of Finance Department advised of such policies and procedures.
3. Investigate and analyze research done in the field of procurement by other governmental agencies and by private industry, in an effort to stay informed of current developments in the fields of procurement, price, market conditions and new products.
4. Coordinate, organize, and assist departments in the specification writing process to ensure that specifications are written concisely and are not written in an exclusive manner.
5. Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City.
6. Issue, receive, open, and evaluate competitive solicitations.
7. Act in an advisory role as a non-voting member on evaluation committees.
8. Prepare and coordinate with department staff to make recommendations for the award of competitive solicitations for City Council approval.
9. Combine purchases of similar items whenever possible and practical, to allow for better pricing and establish a more competitive atmosphere.
10. Conduct a procurement class each quarter on an as-needed basis for employees who process requisitions, receive invoices, approve purchase orders, and/or develop specifications. Additionally, individual training by the Procurement Division is available at the request of departments.

PROCUREMENT CODE OF ETHICS

By participating in the procurement process, employees of the City of Kyle agree to:

- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- Demonstrate loyalty to the City of Kyle by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Kyle.
- Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence or appear to influence purchasing decisions.
- Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for him-herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of governmental duties.
- Engage in no business with the City of Kyle, directly or indirectly, which is inconsistent with the conscientious performance of Governmental duties.
- Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.
- Promote positive supplier relationships through courtesy and impartiality in all phases of the procurement cycle.
- Know and obey the letter and spirit of laws governing the procurement function and remain alert to the legal ramifications of procurement decisions.
- Expose corruption and fraud wherever discovered.
- Uphold these principles, ever conscious that public office is a public trust.



Core Ethical Principles

Ethical behavior and integrity are foundational to the actions of all public officials and employees involved in procurement. These principles are guided by the following core values:

- **Fairness:** Ensuring equal opportunity for all vendors and maintaining impartiality in procurement decisions.
- **Honesty:** Providing accurate, truthful information and avoiding deceptive practices.

- **Accountability:** Taking responsibility for procurement actions and decisions, ensuring transparency in all processes.

Conflict of Interest

A conflict of interest arises when an individual's official duties intersect with personal interests, potentially impairing objective judgment. Such conflicts can lead to biased decisions, undermining the integrity of the procurement process. Even the perception of impropriety can erode public trust, making it essential for all City employees involved in procurement to act in an ethical, impartial, transparent, and professional manner.

Guidelines for Managing Conflicts of Interest

- **Disclosure:** Employees must disclose any potential conflicts of interest to their Department Director or the Human Resources (HR) department immediately.
- **Recusal:** If a conflict of interest exists, the employee may be required to recuse themselves from the procurement process to maintain objectivity and integrity.
- **Documentation:** In situations where recusal is not possible, additional documentation must be completed and maintained in the procurement file to ensure transparency and accountability.

Seeking Guidance

When faced with ethical dilemmas or potential conflicts of interest, employees should:

- Contact their Department Director or the HR department for advice and clarification.
- Follow established procedures for disclosure and documentation to uphold the integrity of the procurement process.

Maintaining ethical standards in procurement is essential to preserving public trust and ensuring that

the City of Kyle's resources are used responsibly and effectively.

Role of Department Purchasers

Department purchasers play a critical role as the gatekeepers of the City of Kyle's limited financial resources. Each purchasing decision they make directly impacts the responsible stewardship of public funds. Purchasers are entrusted to uphold the highest ethical standards, ensuring that all procurement activities reflect the City's commitment to integrity, fairness, and accountability.

PROCUREMENT CYCLE

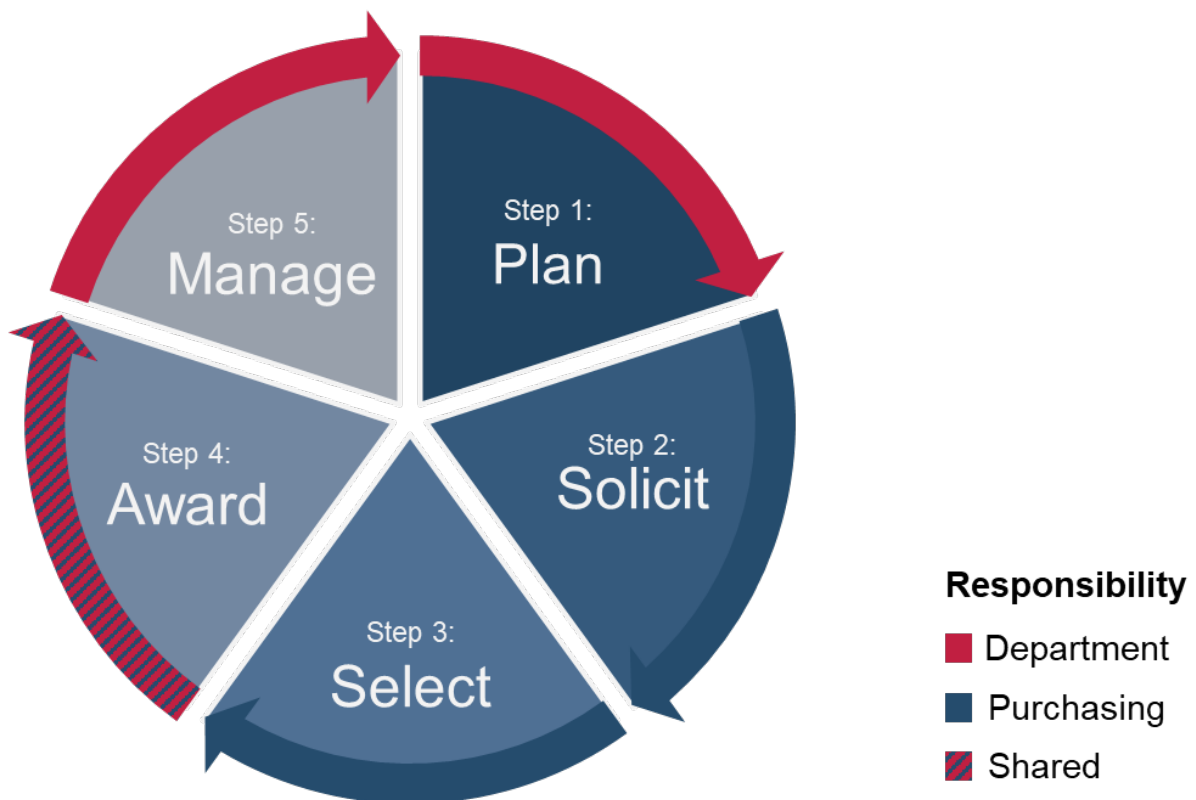
Before engaging in procurement, it is important to understand that there are common characteristics between all procurements and following the processes outlined below ensures that the procurement is conducted in a transparent and efficient manner.

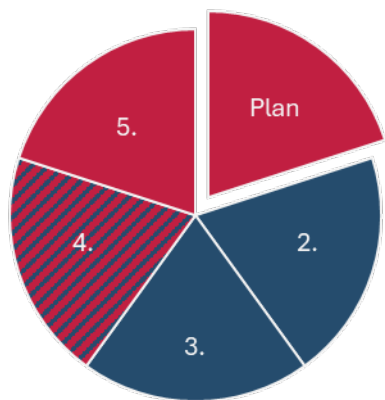
The Procurement Cycle identifies the five major steps performed by public procurement professionals for every procurement.

The steps of the Procurement Cycle are summarized as follows:

1. **Procurement Planning:** Define the business needs and establish the procurement objectives.
2. **Solicitation Method Selection:** Identify the appropriate Procurement Method and issue a solicitation.
3. **Vendor Selection:** Fairly and objectively select the vendor based on solicitation criteria.
4. **Contract Award Process:** Ensure that the awarded contract complies with applicable procurement law and contains provisions that achieve the procurement objectives.
5. **Contract Management:** Administer and enforce the terms of the contract.

The remainder of the Guide is organized to provide practical suggestions as well as best practices for the procurement activities associated with each step of the Procurement Cycle





1.0 PROCUREMENT PLANNING

Procurement planning is the process of transforming the need or desire to acquire goods or services into a structured solicitation that delivers the desired outcomes. Through careful planning, input from stakeholders, development of a clear timeline, and strategic sourcing, a well-defined scope can be created that ensures the request is met with a successful result. Effective procurement planning fosters more thoughtful and coordinated decision-making. Additionally, it provides an opportunity to identify areas where procurement activities could be consolidated, enabling economies of scale, and offering a comprehensive view of the overall procurement scope.

1.1 Benefits to Planning:

Clearer Scope and Requirements: A well-defined scope increases the likelihood of receiving more responsive proposals, streamlining the evaluation process. This leads to the selection of products that better fulfill the client's needs and simplifies contract management.

Improved Sourcing: Thoughtful planning ensures the appropriate suppliers, and potentially an increased number of suppliers, participate in the bidding process. This heightened competition can result in more robust proposals at more favorable prices.

Minimized Impact on Staff: Unplanned procurements, conducted outside of established processes, often yield poor results, and require

additional staff time. A structured approach reduces this burden, improving overall efficiency.

Reduced Risk of Delays and Better Agenda Readiness: Proper procurement planning reduces the likelihood of delays, ensuring that timelines are met, and agendas are fully prepared.

Potential for Greater Value: Consolidating acquisitions where possible can unlock significant value, maximizing efficiency and leveraging purchasing power.

1.2 Planning Prerequisites

Before initiating a procurement, the requesting or originating department should consider the following activities to ensure proper planning:

Purpose of the Purchase: Clearly define the objective and purpose of the purchase.

History of Similar Purchases: Review past procurements of similar goods or services to identify any relevant patterns or lessons learned.

Special Considerations: Consider any specific requirements such as compatibility with existing systems, equipment, scheduling constraints, or performance standards.

Funding Availability: Confirm that the necessary budget and financial resources are available for the procurement.

Risk Identification and Mitigation: Assess potential risks associated with the procurement and develop strategies to minimize or address them. Consider including alternative solutions where applicable.

Procurement Method Options: Evaluate the different procurement methods available and determine which is most suitable for the specific purchase.

Market Research: Market research is a critical part of effective procurement planning and helps inform key decisions. It is used to determine:

Available Goods and Services: Identify what products or services are available to meet the needs.

Potential Suppliers/Vendors: Research suppliers, vendors, or firms that can provide the required goods

or services.

Clear Requirement Definition: Understand how to clearly articulate the requirements to ensure accurate responses from suppliers.

Estimated Prices/Costs: Gather information on pricing to estimate costs and determine budgetary needs.

Requirement Analysis: The requesting or originating department is responsible for defining and analyzing the quality and technical specifications of the procurement. This includes, but is not limited to:

Product Descriptions, Specifications, or Scope of Work: Clearly outline the specifications and scope of services or products required.

Quality Assurance Requirements: Define any quality control measures and standards to ensure the procurement meets expectations.

Inspection, Testing, and Acceptance Criteria: Establish the criteria for inspecting and testing the goods or services, including how they will be accepted upon delivery.

Safety Parameters and Requirements: Ensure that safety standards and parameters are met for the procurement.

1.3 Best Practice for Specifications

SIMPLE: Avoid unnecessary detail but be complete enough to ensure that requirements will satisfy the intended purpose.

CLEAR: Use terminology that is understandable to the City and bidders. Use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legal-type language and jargon whenever possible.

ACCURATE: Use units of measure that are compatible with industry standards. All quantities and packing requirements should be clearly identified.

COMPETITIVE: Identify at least two commercially available brands, makes, or models (whenever possible) that will satisfy the intended purpose. Avoid unneeded extras that could reduce or eliminate

competition and increase costs.

FLEXIBLE: Avoid totally inflexible specifications that may prevent the acceptance of a bid that could offer greater performance at a lower cost.

MANDATORY: Avoid making requirements mandatory so the specification is not exclusionary.

1.4 Initiating the Procurement

It is common for a department to request a meeting with our Procurement Team to discuss upcoming or potential purchases. These meetings often involve all relevant stakeholders and are an important part of the process.

Departments are encouraged to work closely with our Procurement Team throughout the procurement process. The Procurement Team can provide valuable advice and support at every stage, ensuring that all necessary steps are followed, deadlines are met, and any urgent considerations are addressed.

Purpose of Collaboration

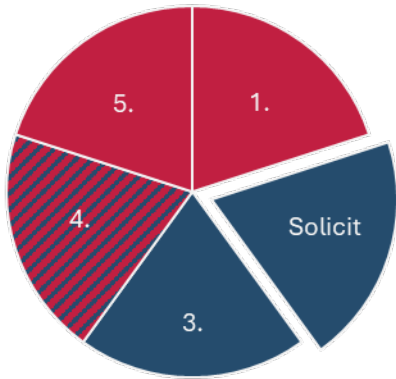
Effective procurement relies on thorough planning, clear communication, and active collaboration between departments and the Procurement Team. It is common for departments to request meetings with the Procurement Team to discuss upcoming or potential purchases. These meetings play a critical role in ensuring the procurement process is efficient, transparent, and compliant with all relevant regulations.

Best Practices for Departments

- **Maintain Open Communication:** Regularly update the Procurement Team on any changes to procurement needs or project timelines.
- **Document Everything:** Keep thorough records of all procurement activities, communications, and decisions.
- **Adhere to Timelines:** Follow established deadlines to ensure timely procurement and avoid project delays.

- **Seek Clarification:** When in doubt, consult the Procurement Team for guidance to ensure compliance and efficiency.

Collaboration with the Procurement Team is essential for ensuring that the City of Kyle's procurement activities are conducted efficiently, transparently, and in compliance with all applicable regulations. By working closely with the Procurement Team, departments can achieve their operational goals while upholding the City's commitment to responsible stewardship of public resources.



2.0 SOLICITATION METHOD SELECTION

All procurements must adhere to City Procurement policies and procedures, in addition to any governing code established by the State or Federal Government.

Choosing a method: There is no golden rule for choosing a procurement method. Individual goods or services may fall into a category that has additional requirements or fall into an exempted class. All centralized procurements will be vetted by Procurement staff and methodology recommendations and any statutory requirements will be provided. There are multiple factors that must be considered when choosing a procurement method.

It is important to note that the City's terms and conditions prevail, and terms and conditions are required for most purchases. A purchase order is required for all purchases totaling more than \$2,999 before placing an order. Quotes shall be collected in an informal manner consistent with competitive procurement practices for purchases under \$99,999. See delegation of signature authority table for complete list. Contracts awarded through an informal competitive process shall be approved by the City Manager or his/her designee. Purchases of \$100,000 and greater shall be conducted formally through a competitive process compliant with Texas procurement statutes. Contracts awarded from a formal solicitation shall be approved by City Council. The following methods of procurement are used to purchase items and services needed by the City.

The following list includes common factors:

- Statutory Requirements
- Price/Cost
- Delivery/Lead Time
- Procurement Time
- High-Profile/Complexity
- Urgency/Department Need
- Product/Service Availability

These factors all need to be considered when choosing the procurement method. The Procurement recommendation will factor these into consideration. If a method is requested, and subsequently approved, that is not in line with the Procurement Recommendation (made by the Procurement Staff) the reasons for the deviation must be documented and included in the agenda back-ground if applicable.

2.1 Quotes

| Total \$ From | Total \$ To | Quotes | Requisition | Approval |
|---------------|-------------|----------------|-------------|------------------------|
| \$0 | \$2,999 | Not Required | No | Department Level |
| \$3,000 | \$9,999 | By Department | Yes | Procurement Officer |
| \$10,000 | \$29,999 | By Department | Yes | Assistant City Manager |
| \$30,000 | \$99,999 | By Department | Yes | City Manager |
| <\$100,000 | | By Procurement | Yes | City Council |

- A minimum of three written quotes are required for any transactions from \$3,000 - \$99,999.
- A 'no' quote returned still equals one quote.
- A minimum of two quotes **must be** Historically Underutilized Businesses if available.
- Each department is encouraged to contact the Procurement Division for purchases over \$3,000 to discuss the best method of purchase for goods and services.
- The department executing the purchase of items under \$100,000 is responsible for obtaining quotes to be reviewed and approved by the Procurement Division. Quotes are required for all contracts and purchases.

2.2 Historically Underutilized Business (HUB)

Local Government Code Chapter [252.0215](#) Competitive bidding in relation to Historically Underutilized Business vendors, states that a municipality, in making an expenditure of more than \$3,000 but less than \$100,000, shall contact at least two HUBs on a rotating basis. If the list fails to identify a disadvantaged business in the county in which the City is situated, the City is exempt from this section. Procurement will ensure all requirements of section [252.0215](#) are met.

A Historically Underutilized Business (HUB) is a business in which at least 51 percent of the business is owned, operated, and controlled by one or more minority groups (American Women, Black Americans, Hispanic Americans, Asian Pacific Americans, or Native Americans or Service-Disabled Veterans) who are economically disadvantaged and who have been historically underutilized because of

their identification as members of these groups. To obtain a listing of all businesses certified by the State of Texas, visit:

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do?>

2.3 Invitation for Bid (IFB) (Goods and Services)

Texas Local Government Code, Section [252.062](#), states:

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.

A Conviction may result in immediate removal from office or employment.

Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is more than \$99,999 must be procured as competitive solicitations (e.g. sealed bids, request for proposals, and request for proposals). Texas Local Government Code Section [252.021\(b\)](#) defines the requirements for competitive bids.

Under no circumstances shall multiple requisitions of \$100,000 or less be used in combination to avoid otherwise applicable bidding requirements or City Council approval, which is required for all purchases greater than \$99,999.

- The user department shall initiate the bid process by contacting the Procurement Division.
- The Procurement Supervisor in conjunction with the user department shall develop a generic set of specifications so as not to eliminate competition.
- User department will provide a list of any known vendors they wish to receive a bid package.
- Procurement assigns the bid package a number.
- Bids received after the due date and time will be rejected as non-responsive.
- Bid openings will be conducted by the Procurement Supervisor or designee.
- The Procurement Division will prepare a tabulation for each item or group of items following the bid opening and consult with each department involved in order to arrive at a mutual agreement for recommendation. Bids are awarded based on the lowest responsible bidder or best value, as specified in the bid documents.

2.4 Time Requirements

The time required for the processing of competitive sealed bids is generally 6-8 weeks. The process consists of the following requirements:

- Requisition is received along with a draft scope of work and evaluation criteria.
- A solicitation package is developed, drafted, and reviewed by the requesting department in collaboration with the Procurement Division.
- Bid is advertised in the printed media as required by statute. By law, the bid cannot be opened until at least the 14th day after the initial advertisement.
- Bid is posted on the City of Kyle website, (<https://www.cityofkyle.com/rfps>) as well as other relevant online advertising platforms where potential bidders are notified of the opportunity. Download is available to any interested party.
- A pre-bid conference is held, if applicable.
- Addenda are issued, as needed.
- Bid is opened, tabulated, and evaluated and recommendation of award is forwarded to user department by the Procurement Supervisor or designee.
- Department memo and presentation are prepared by department, and presented to City Council for approval.
- Receipt of all required insurance and bonds; and contract is executed.

2.5 Request for Proposals (RFP)

The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body has delegated its authority under this subsection to the

City Manager. If the competitive sealed proposals requirement applies to the contract, the municipality shall consider the criteria described by Section [252.043\(b\)](#) and the discussions conducted under Section [252.042](#) to determine the best value for the municipality.

If provided in a RFP, proposals shall be opened in a manner that avoids disclosure of the contents to competing offers and keeps the proposals confidential during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection. All bid documents are required to be clearly labeled confidential information by the bidder.

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter [552](#), the Public Information Act, and applicable City policies implementing this chapter.

How to Prepare a Request for Proposal:

The process consists of the following requirements:

1. Requisition is received along with a draft scope of work and evaluation criteria.
2. A solicitation package is developed, drafted, and reviewed by the requesting department and the Procurement Division.
3. The RFP is advertised in printed media as required by statute. By law, the RFP cannot be opened until at least the 14th day after the initial advertisement:
4. Proposal documents can be downloaded from The City of Kyle's website, (<https://www.cityofkyle.com/rfps>) as well as other relevant online advertising platforms where potential bidders are notified of the opportunity. Download is available to any interested party.
5. A pre-proposal conference is held, if applicable.
6. Addenda are issued, as needed.

7. Proposal is opened and evaluated.
8. Presentations by bidders, if applicable.
9. Contract development, if applicable.
10. Negotiate, if required.
11. Staff memo and presentation are prepared and presented to City Council for approval.
12. Receipt of all required insurance and bonds; and
13. If awarded, a PO or contract and an award letter are issued.

2.6 Request for Qualifications (RFQ)

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

In Texas Government Code, [Chapter 2254\(a\), Professional Services](#), states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:

- Of demonstrated competence and qualifications to perform the services.
- Highest ranking respondent enters negotiations with the City in order to find a mutually approved professional services agreement.
- If a fair and reasonable amount is not met negotiations end and negotiations begin with the next highest ranking vendor.
- Must be consistent with and not higher than the recommended practices and fees

published by the applicable professional associations; and

- May not exceed any maximum provided by law.
- Professional Services for the purposes of Government Code [Chapter 2254](#) are defined as those “services within the scope of the practice, as defined by state law of:

1. Accounting
2. Architecture *
3. Landscape architecture*
4. Land surveying*
5. Medicine
6. Optometry
7. Professional engineering*
8. Real estate appraising
9. Professional nursing
10. or provided in connection with the professional employment or practice of a person who is licensed or registered as a:
 - a) Certified public accountant
 - b) Architect*
 - c) Landscape architect*
 - d) Land surveyor*
 - e) Physician (including a surgeon)
 - f) Optometrist
 - g) Professional engineer
 - h) State certified real estate appraiser
 - i) Registered nurse

*Requires Approval from the City’s Engineering Division prior to any procurement activities for Architecture or Engineering (A/E) Services.

2.7 High Technology Procurement

Contact the Information Technology department to ensure the technology purchase is compliant with City requirements. The Procurement Division will coordinate with the Information Technology department to ensure the appropriate solicitation procedure is used.

High Technology items include but are not limited to software applications, telecommunication devices, radio communication devices, electronic distributed control systems, computers, and any technical services tied to any of the forementioned devices/applications. When seeking to purchase any technology items a department should first consult with the IT Department and may be referred to Procurement if requested item does not meet the criteria needed for their involvement. Email or written documentation will be required by Procurement staff in order to initiate a procurement without IT.

2.8 Outside Legal Services

Any solicitation for legal services needs written approval from the City’s Attorney’s Office. Contact the Attorney’s Office for any questions related to procuring legal services prior to engaging with the Procurement Division.

2.9 Cooperative Purchases

Cooperative purchasing occurs when two or more governmental entities coordinate some or all procurement efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements, and represents the best value to the City.

Cooperative purchasing can occur through using another government’s contract when legally permissible:

- Interlocal agreements
- State contracts
- Piggybacking
- Joint purchases

Best value can be determined by non-cost factors. Past performance, reliability and overall deliverables should be assessed when determining best value. Procurement, in conjunction with user departments, must ensure that all procurement requests on cooperative contracts are thoroughly vetted by checking cooperative price to market pricing for like items on purchases exceeding \$99,999. When purchasing through a cooperative purchasing program it is ok to obtain a single quote when the purchase does not exceed \$99,999. For purchases in excess of \$100,000 good faith efforts shall be made to collect multiple quotes to ensure the City is receiving the best value. Evidence of good faith efforts (i.e., copies of communications, business justification, etc.) will be provided to the Procurement Division to include with the contract file.

1. Interlocal Agreement Purchases

Texas Government Code [Chapter 791](#), Interlocal Cooperation Act, allows local governments to contract with and between one another, to provide governmental functions and services, as well as join together in contracting with other entities to provide goods and services.

2. State Contract Purchases

Texas Local Government Code [Chapter 271, Subchapter D](#), § [271.081-271.083](#), State Cooperation in Local Purchasing Programs, allows local governments to purchase items on the State's purchasing contracts and allows the State to solicit bids on the local government's behalf when considered feasible by the State.

3. Piggybacking

Piggybacking occurs when one governmental agency purchases for itself and for others as a joint purchase.

4. Joint Purchases

Agencies should protect themselves by establishing a policy in writing, even when the arrangement is informal.

Joint purchasing occurs when two or more governmental agencies join together to purchase one or more items. This may involve each entity handling

part of the administrative duties or agreeing to have one entity handle the transactions under the guidance of other entities. To ensure the purchase is mutually satisfactory for all parties involved, everyone must reach a consensus on the product specifications, ensuring the outcome meets the needs and expectations of everyone involved.

2.10 Emergency Purchases

The Legislature exempted certain items from sealed bidding in [Texas Local Government Code Section 252.022\(a\)](#), including but not limited to:

1. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the needs of the municipality's residents or to preserve the property of the municipality.
2. A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
3. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

In order to allow the City to respond to an emergency the City Manager has created a protocol for waving the bidding requirements for emergency procurements.

There are two thresholds governing emergency procurements: \$0-\$100,000 and >\$1000,000.

The Director of Finance Department has discretion in waiving bidding requirements for emergency procurements less than \$100,000.

The City Manager has discretion in waiving the bidding requirements for all emergency procurements greater than \$100,000 which shall be reported to the council.

Department Emergency Memorandums:

Under \$100,000 – The Department Director will submit an emergency memorandum to the Director of Finance Department, outlining the circumstances and requesting a waiver of statutory bidding requirements. The memorandum must define the

conditions that exist, give a background on the circumstances, cite the exemption in the statute that allows for the waiver, identify the estimated expenditure level that is requested and provide for legal review and approval of the emergency.

Over \$100,000 – The Department Director will submit an emergency memorandum to the City Manager with a copy to the Director of Finance Department, outlining the circumstances and requesting a waiver of statutory bidding requirements. The memorandum must define the conditions that exist, give a background on the circumstances, cite the exemption in the statute that allows for the waiver, identify the estimated expenditure level that is requested and provide for legal review and approval of the emergency.

2.11 Definition of a Valid Emergency Purchase

Valid emergencies are those that occur as a result of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. Other instances of emergencies are during a state or national public health crisis or any other state of emergency declared by the federal or state government.

Care should be taken to avoid emergencies created by negligence. Most vendors will charge a premium if labor, supplies, or materials are required immediately. Better prices can usually be obtained if the material is purchased on sealed, written bids. Most vendors will go through the manufacturers for a price that is lower than the vendor's wholesale price.

Typical examples of emergencies created through negligence are depletion of stock due to neglect; emergency orders for materials for projects which could have been planned weeks or months ahead, etc. Abuse of the emergency purchase procedure is justification to withhold issuance of additional confirming PO's.

If an emergency situation arises, the Departmental Director is responsible for contacting the City Manager, Finance Director, and Procurement Division to determine appropriate action. The City Manager must give written consent to issue the

purchase order once the cost is determined. The City Manager may decide to extend the emergency circumstances surrounding the procurement as required.

2.12 Ratification by the City Council

At the next City Council meeting following the date the exempted expenditure is made, for which there is sufficient time to give notice under the Texas Open Meetings Act, the Department Director shall place the exempted expenditure item on the City Council agenda for ratification if the expenditure is in excess of \$100,000. Sole Source Purchases

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code.

When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a detailed written justification must be provided to the Procurement Division in advance for review and approval.

The legislature exempted certain items from sealed bidding in the [Texas Local Government Code Section 252.022\(a\)7](#), in part: Procurement of items available from only one source, including:

Items available from only one source because of patents, copyrights, secret processes, or natural monopolies;

1. Films, manuscripts, or books.
2. Gas, water, and other utility services.
3. Capital replacement parts or components for equipment.
4. Books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and
5. Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization

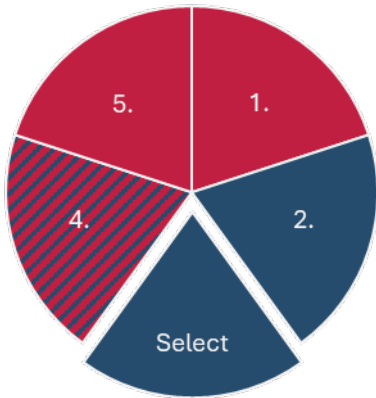
has provided significant financial or other benefits.

6. Sole source should be used in rare cases.

2.13 Sole Source Documentation

The department shall provide the Procurement Division with:

1. A completed form at <https://forms.office.com/r/ZejszkK2GB>
2. A sole source letter from the vendor, on that company's letterhead, stating why the item being purchased is sole source. This letter shall include item description, patent, copyright, and/or other pertinent information that will assist the Procurement Division in making the decision as to whether or not the item is acceptable as a sole source. The letter will remain valid for one year from the date of approval.



3.0 VENDOR SELECTION

Vendor selection for the City of Kyle shall be conducted in a transparent and competitive manner, ensuring that all qualified vendors are given fair consideration based on criteria such as cost, quality, compliance with specifications, and the vendor's ability to meet project timelines and service requirements.

3.1 Bid Posting

In compliance with the State of Texas procurement regulations, the City of Kyle follows specific guidelines for posting solicitation opportunities to ensure transparency, fairness, and equal access to all potential vendors. These requirements are designed to promote competitive bidding and ensure that public funds are spent efficiently and ethically.

3.2 Advertising Requirements

Texas Local Government Code, Section [252.041\(a\)](#) states:

Whenever the competitive sealed bidding requirement applies to the contract, 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 consecutive weeks in a newspaper published in the municipality.

The date of the first publication must be before the 14th calendar day before the date set to publicly open and read them aloud.

While 14 days is the minimum statutory posting period for an advertisement, it is recommended that advertisements run longer. It is best practice for solicitations to run for 30 days or longer to allow interested eligible vendors the opportunity to submit quality proposals. Failure to allot adequate time for a solicitation may have the effect of artificially limiting the vendor pool or impact the quality of proposals received.

Factors such as holidays, the complexity of the procurement, and any additional statutory requirements due to the nature or type of solicitation should be considered in the procurement timeline.

3.3 Pre-Bid/Pre-Proposal Conferences

Pre-bid and pre-proposal conferences are held whenever it is determined that such a conference is needed and allowed by law. Pre-bid and pre-proposal conferences may be held for projects that involve installation on City property and/or when warranted by the complexity of the work.

3.4 Bid/Proposal Specifications

A specification provides an accurate description of a particular commodity or service to be procured. The City specifications, when set forth, shall define the requirement, and convey the same meaning to all parties concerned, i.e., the user, purchaser, and vendor. Federal and standard specifications shall be used whenever possible.

The specifications describing supplies, materials, and equipment to be bid through the Procurement Division will be developed primarily by the requesting department with the assistance of the Procurement Division as required. Final approval of all solicitation packages is at the discretion of the Procurement Division.

3.5 Statement of Work (SOW)/Technical Specifications

- a. The requesting department is responsible for submitting a Statement of Work/Technical Specification that functionally defines the

needs and requirements.

- b. The requesting department is responsible for ensuring that the Statement of Work (SOW) is quantified and structured in such a manner as to:
 - Secure the best economic advantage for the City.
 - Be clearly stated.
 - Be unbiased and non-prejudiced toward vendors.
 - Encourage innovative or alternate solutions to the requirement described; and
 - Allow free and open competition to the maximum extent reasonably possible.

3.6 Opening of Bids

Competitive sealed bids shall be publicly opened, read aloud, and recorded at a designated location at the scheduled date and time. All vendors submitting bids are invited to attend these bid openings, as well as City personnel representing the division or department of interest, and other interested parties.

The City will reject late bids; however, they will not be opened nor considered in the evaluation of the bid. Bids may be withdrawn at any time, amended, and resubmitted prior to the official opening. Bids may not be altered, amended, or withdrawn after the official opening without the recommendation and approval of the Finance Department Director.

3.7 Evaluation of Responses

The Procurement Division will conduct a responsive check, and other City department personnel will evaluate all competitive bids, proposals, and/or offers received in accordance with the evaluation criteria established and included in the solicitation documents. An evaluation committee should be established for each project.

The evaluation team is composed of subject matter experts and stakeholders. The committee should

have a diverse relevant disciplinary expertise and knowledge of the product or service being procured. Because service on an evaluation committee involves a significant time commitment, care should be taken to ensure that each member selected as a scoring member is able to attend the committee meetings and oral presentations.

The recommended size of an evaluation committee is three to five scoring members. To avoid potential individual bias, the committee should not have fewer than three scoring members. Depending on the procurement, the department may determine that a larger committee is necessary. There is no restriction as to how many individuals the department may include on an evaluation committee; however, good judgment dictates that the number of individuals on the committee be limited to the minimum required to accomplish its purpose.

3.8 Lowest Responsive and Responsible Bidder

A responsive bidder is defined as one who submits a completed sealed bid packet within the stated time deadline and in accordance with the bid specifications.

A responsible bidder is defined to be one who demonstrates specific selection criteria responses that define whether the company can successfully deliver the supplies, equipment, or services as determined by the internal evaluation committee.

3.9 Best Value Bidder

Texas Local Government Code, Section [252.043](#), states, in part:

If the competitively sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality, as stated in the bid documents. In determining the best value for the municipality, the municipality may consider:

- 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 municipality's needs.
- e. The bidder's past relationship with the municipality.
- f. The impact of the ability of the municipality to comply with laws and rules relating to contracting with HUB and non-profit organizations employing persons with disabilities;
- g. The total long-term cost to the municipality to acquire the bidder's goods or services; and
- h. Any relevant criteria specifically listed in the request for bids or proposals.

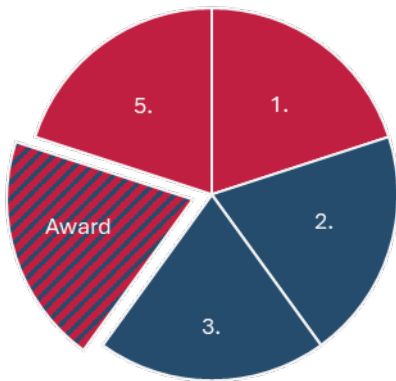
3.10 Identical Bids

Texas Local Government Code, Section [271.901](#) states in part:

If a municipality is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality shall enter into a contract with only one of those bidders and must reject all other bids.

If only one of the bidders submitting identical bids is a resident of the municipality, the municipality must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality, the municipality must select one of those bidders by casting of lots. In all other cases, the municipality must select from the identical bids by the casting of lots.

The casting of lots must be in a manner prescribed by the mayor of the municipality and must be conducted in the presence of the governing body of the municipality. All qualified bidders or their legal representatives may be present at the casting of lots.



4.0 CONTRACT AWARD PROCESS

In accordance with the City of Kyle's procurement policies, all contracts, task orders, and change orders with a value of \$100,000 or greater must receive formal approval from the City Council prior to execution. This process is designed to ensure transparency, accountability, and fiscal responsibility in the expenditure of public funds. The following outlines the steps and responsibilities involved in securing City Council approval for such procurements.

1. Initiation of Council Requests:

The Finance Department holds the primary responsibility for initiating and electronically submitting all requests that require City Council approval. This includes contracts, task orders, and change orders meeting or exceeding the \$100,000 threshold. The department ensures that submissions adhere to established timelines and procedural requirements to facilitate smooth and timely consideration by the Council.

2. Responsibilities of the Requesting Department:

The department seeking the contract or change order must prepare and submit two critical documents:

- **Staff Memorandum:** This document should provide a comprehensive overview of the request, including background information, the purpose of the contract or change order, and a justification for the expenditure. The memo must outline how the procurement

aligns with city goals, policies, and budgetary constraints.

- **Presentation Draft:** A clear and concise presentation must accompany the staff memo. This presentation will be used during the City Council meeting to visually communicate the key points of the request. It should include details such as the scope of work, vendor selection process, project timelines, and financial implications.

Both documents should be thoroughly reviewed by the requesting department to ensure accuracy and completeness before submission to the Finance Department.

3. Review and Submission by Finance Department:

Upon receipt of the staff memorandum and presentation draft, the Finance Department will conduct a detailed review to confirm that all necessary information is included and that the documentation complies with city policies and legal requirements. The department may request additional information or revisions from the requesting department if needed. Once the review is complete, the Finance Department will electronically submit the request to the City Council for inclusion on the meeting agenda.

4. City Council Review and Approval:

During the City Council meeting, the requesting department will present the contract, task order, or change order, utilizing the prepared presentation. Council members may ask questions or request further clarification on any aspect of the request. The Council will then deliberate and vote on the approval. Approval requires a majority vote from the Council members present. If approved, the contract or change order will proceed to execution. If not approved, the requesting department may need to revise the proposal and resubmit it for future consideration.

5. Post-Approval Procedures:

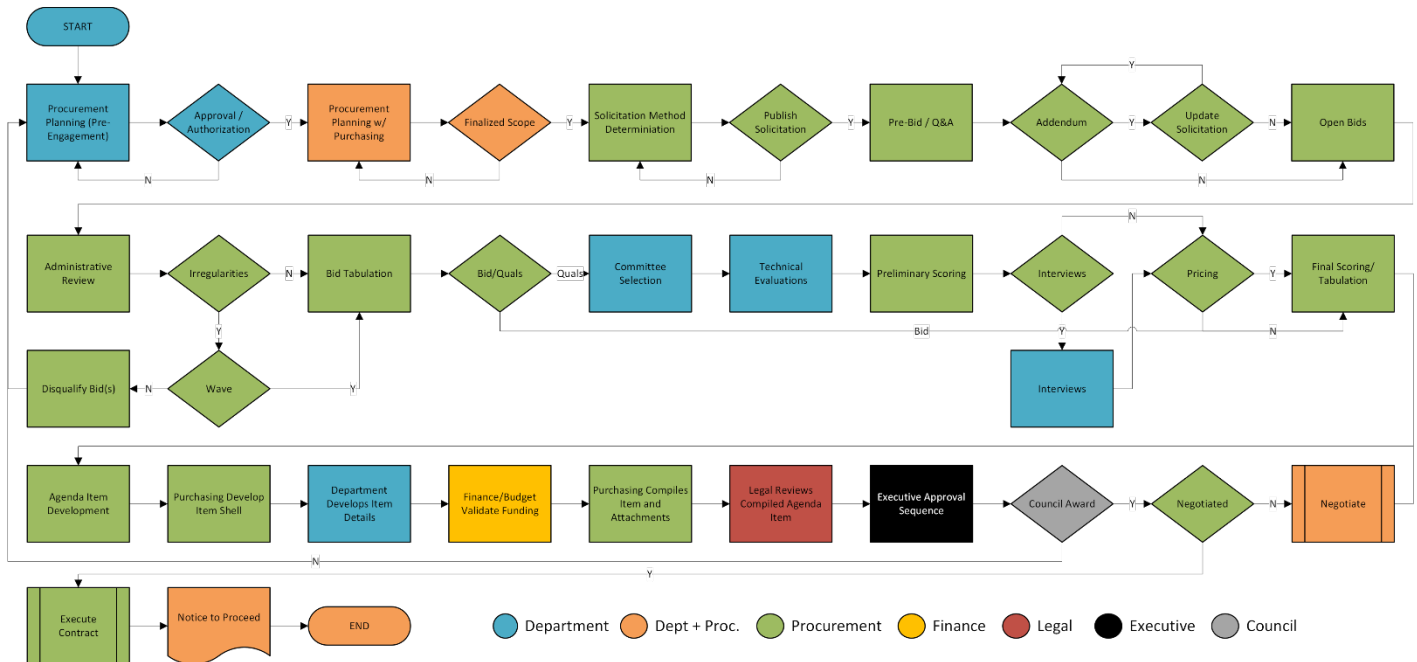
Following City Council approval, the Finance Department will coordinate the

finalization and execution of the contract or change order. The requesting department is responsible for ensuring that all contractual obligations are met and that the project or service is carried out in accordance with the agreed terms.

This structured approval process helps maintain the integrity of the City of Kyle's procurement activities, ensuring that all significant financial commitments

are made with appropriate oversight and due diligence. \$100,000 or greater. The Finance Department Department initiates and electronically submits all council requests. The requesting department is responsible for providing the initial staff memo and presentation draft.

The Process Flow Chart for Procurement Items



4.1 Award of Contract

Texas Local Government Code, Section [252.043](#), states, in part

If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

4.2 Vendor Ethical Behavior

Through the submission of bids, all bidders are required to sign and return a completed Ethical Behavior Form. This form requires bidders to promise that their officers, employees, and agents will not attempt to lobby or influence a vote or recommendation related to their bid, directly or indirectly, through any contact with City Council members or other City officials between the release of the bid until date a contract is executed by the City Manager or designee. This non-communication period is known as a communications blackout.

The City of Kyle firmly believes in a fair and transparent process and no special considerations are given. Any violations will be cause for the rejection of the violators bid at the discretion of the City Manager or designee.

4.3 Vendor Communications

Communication Prior to Solicitation

Communication between purchasers and vendors is imperative and encouraged. If used effectively, communication with industry representatives is a vital resource for departments.

As part of the procurement planning phase communication with vendors is important to understand what solutions the market has to offer.

Steps must be taken, however, to maintain a fair opportunity to compete for all vendors and avoid any appearance of favoritism. Department personnel must be mindful that one-on-one communications with vendors occurring prior to contract award are subject to enhanced scrutiny due to the importance of maintaining a “level playing field” among all eligible vendors during competitive procurements. If there is any doubt about appropriate communications with vendors, consult with Procurement and or the City Attorney.

Communication During a Solicitation

When the solicitation is issued, only vendor communication methods established in the solicitation are permitted. Designated points of contact are established within the solicitation by Procurement to receive inquiries from vendors.

Opportunities for formal communication including pre-bid conferences that are open to all interested parties, and written question and answer (Q&A) periods are recommended. These opportunities are the only times when Procurement or the department can benefit from vendors’ input after a solicitation is issued to make any necessary corrections to the solicitation through the addendum process.

Only Procurement staff should be in direct contact with bidders during an active solicitation. Bidders are subject to the communications blackout period and shall not make contact with City staff outside of the procurement office.

4.4 Bid Protest

These protest procedures apply to procurement of goods, services, or public works by the City of Kyle, including those where federal funds are used in whole or part. These procedures are also applicable to recipients of grants awarded by the City of Kyle who intend to provide such funds to subrecipients. This protest process does not create due process rights but provides an avenue for bidders/proposers to raise concerns about actions related to a bid or competitive solicitation process.

The City’s Procurement Division of the Finance Department has the authority to settle or resolve any alleged deficiencies or protests. Protests must follow the specific procedures outlined below. Failure to

comply with these requirements may result in the dismissal of the protest by the Procurement Officer.:

The City of Kyle will only consider protests related to the following issues:

- A. Violation of local, state, or federal regulations.
- B. Issues with the solicitation document that result in an unfair advantage or an unlevel playing field.
- C. Errors in the tabulation or evaluation of bids or proposals.

Protest Process

- A. **Timeframe:** A protest must be submitted in writing to the City of Kyle's Procurement Division within five (5) business days after the date the protestor was notified of the award decision or non-award notice. If the protestor fails to submit the protest within this timeframe, the protest will be considered waived.
- B. **Method:** Protests must be submitted in writing to:

*City of Kyle Procurement Division
100 W. Center Street
Kyle, Tx 78640*
- C. **Protest Contents:** The protest must include:
 - 1. Name, address, and contact information of the protestor.
 - 2. Solicitation number and name of the solicitation.
 - 3. A clear statement of the grounds for the protest, including facts, legal theory, and specific references to relevant solicitation provisions.
 - 4. A detailed explanation of the relief or remedy sought.
 - 5. Signature of the protestor or their representative, including evidence of

authority to sign.

- D. **Acknowledgement of Protest:** Upon receipt of the protest, the Procurement Division will acknowledge the receipt within three (3) business days and will provide the protestor with timeline of the internal review schedule.
- E. **Review of Protest**
 - 1. The Purchasing Department, along with legal counsel or other designated City officials, will review the protest.
 - 2. The City may request additional information from the protestor, the awarded vendor, or any other parties involved in the procurement process.
 - 3. The review process is intended to determine if the protest has merit and if any procedural errors, legal violations, or issues occurred during the procurement process.
- F. **Resolution of Protest**
 - 1. **Protest Decision:** The Procurement Division will issue a written decision within ten (15) business days of receiving the protest. This decision will include:
 - A summary of the protest.
 - The analysis of the protest's grounds.
 - A determination as to whether the protest is upheld or denied.
 - 2. **Possible Outcomes**
 - If the protest is upheld, the City may:
 - Re-evaluate the bid or proposals.
 - Re-open the procurement process if necessary.
 - Modify the award decision or take corrective action.

- If the protest is denied, the original award decision will stand, and no changes will be made to the procurement process.

G. Impact on Award of Contract

1. The City reserves the right to delay the contract award until the protest is resolved.
2. If the City determines that the protest is valid and that the award decision was incorrect, the City may cancel the contract award, re-evaluate bids, or take any necessary corrective actions.
3. While a protest is pending, the City generally will not make an award until the protest has been resolved. However the City may proceed with an award if the City Manager or Procurement Officer determines that:
 - The City urgently needs the supplies or services, or
 - Delay in making an award would unduly impact the delivery of performance services.

H. Federal Agency Review: If federal funds are involved, the protestor must exhaust all administrative remedies within the City's protest process before appealing to the appropriate federal agency. The federal agency review will be limited to:

1. Violations of applicable federal law or regulations; and
2. Violations of the City's protest procedures, including failure to review the protest.

I. Finality of Decision: The decision by the City of Kyle, through the Procurement Division or designated representative, is final and binding.

4.5 Title VI Requirements

All contractors, vendors, and subcontractors must certify their adherence to Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs and activities receiving federal financial assistance. Procurement documents will include clear non-discrimination clauses, and all bid solicitations and contracts will reference Title VI obligations. Any complaints of discrimination will be thoroughly investigated in accordance with federal guidelines, and corrective actions will be taken promptly to address any violations.

The City's Bid Documents include a self-certification form required to be submitted by potential bidders for all formalized procurements.

4.6 Bonds

A bid bond/proposal guarantee, issued by the bidder's/proposer's surety, is a legal document used to bind the vendor to honor the bid/proposal. In the event the vendor fails to honor a bid/proposal, the bid bond/proposal guarantee may be forfeited and the issuing surety shall pay the City the amount of the bond/guarantee to defray the City's cost. Bid bonds/proposal guarantees shall, as a general rule, be five percent (5%) of the bid/proposal amount. In certain procurements a dollar amount may be specified in place of a percentage. The issuing surety must be a company authorized to conduct business in the State of Texas.

4.6.1 Payment Bonds

A payment bond, generally, in an amount of one hundred percent (100%) of the contract amount is a legal document insuring faithful payment by the vendor of all invoices for materials, labor, subcontractors, taxes, and any/all other expenses relative to the contract. In the event of vendor's failure to pay any/all of the costs relative to the contract, the bonding company becomes liable. In accordance with Texas Government Code [Chapter 2253](#), payment bonds are required for all public works contracts in excess of \$100,000.

Subject to the requirements of applicable law, the

Procurement Division, with input from the department, shall determine whether a performance bond will be required. While the decision is discretionary, the decision shall take into consideration the work to be performed or system/subsystem to be developed. Performance bonds must be submitted by the successful vendor along with the duly executed contract documents prior to receiving a “Notice to Proceed” for the work. Other bonds such as fidelity bonds, etc., and additional requirements will be imposed on a case-by-case basis.

4.4.2 Performance Bonds

A performance bond in the amount of one hundred percent (100%) of the contract amount is a legal document insuring faithful performance of the work of the contract by the vendor. In the event of contractor’s failure to perform the work, the surety is liable for the satisfactory completion of the work or may pay the City up to the full bond amount. A performance bond is required for all public works (construction contracts) in excess of \$100,000.

Subject to the requirements of applicable law, the Procurement Division, with input from the department, shall determine whether a performance bond will be required. While the decision is discretionary, the decision shall take into consideration the work to be performed or system/subsystem to be developed. Performance bonds must be submitted by the successful vendor along with the duly executed contract documents prior to receiving a “Notice to Proceed” for the work. Other bonds such as fidelity bonds, etc., and additional requirements will be imposed on a case-by-case basis.

4.7 Insurance Requirements

When contract work is to be performed on City property, the contractor must provide proof of required insurance coverage.

The insurance coverage and amounts are determined by the potential risk or loss to the City. These coverage and amounts are established at the time the bid/proposal packages are being prepared and are included as requirements in the package.

The successful bidder or proposer is required to submit an appropriate Certificate of Insurance (COI) reflecting that all required coverage are in effect and current, along with the executed contract documents and required bonds or proposal guarantee.

4.8 Change Orders to Existing Purchase Orders and Contracts

Change orders are contract changes made after execution of the contract that effect necessary changes to plans and specifications or to increase/decrease the scope or quantity of the work to be performed or the services, materials, equipment, or supplies to be furnished.

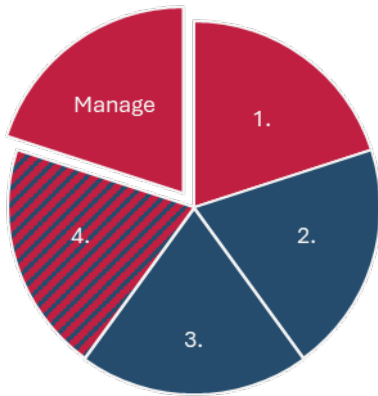
The initiating department can contact the Procurement Division to begin the process. Appropriate documentation is required.

The Procurement Division will ensure that the documentation is placed with the appropriate bid files. With the exception of a legally defined emergency purchase, no contract work or changes may begin prior to the issuance of a Notice to Proceed.

Per state law, the original amount of a contract may not be increased with a change order by more than twenty-five percent (25%). The original amount of a contract may not be decreased with a change order by more than twenty-five percent (25%) without the written consent of the contractor.

Change Orders over \$49,999 will require council approval.

When an original construction contract amount is for more than \$100,000 the original contract price may not be increased by more than 25 percent. The original contract price may not be decreased by more than 25 percent without the consent of the contractor.



5.0 CONTRACT MANAGEMENT

The purpose of this section is to establish guidelines and procedures for the effective management of contracts entered into by the City of Kyle. This ensures that all contracts are executed, monitored, and completed in compliance with applicable laws, regulations, and city policies.

5.1 Roles and Responsibilities

The assigned Contract Administrator is the designated individual responsible for overseeing the execution and management of the contract. Their duties include monitoring contractor performance, ensuring compliance with contract terms, and maintaining documentation. The Department Head provides oversight to ensure that contract management aligns with departmental goals and city policies.

5.2 Monitoring and Reporting

The Contract Administrator must establish a monitoring plan to ensure contract compliance. This includes regular progress meetings, site visits when applicable, and performance evaluations. Any deviations from contract terms must be documented and addressed promptly in accordance with the contract documents. Contractors are required to submit reports and documentation as outlined in the contract.

5.3 Amendments and Modifications

Any changes to the contract scope, terms, or conditions must be documented through a formal contract amendment. These amendments must be reviewed by the Legal Department and approved by the appropriate authority before implementation.

5.4 Payments and Invoices

Under the provisions of Texas Government [Code 2251](#), the City of Kyle is required to pay an invoice within 30 days of receipt. An invoice is an itemized statement of merchandise delivered by the vendor. Invoices are based on the purchase order and the actual delivery tickets or packing slips.

ALL Invoices must be sent to Accounts Payable (AP)

Invoices must be reviewed and approved by the Contract Administrator before submission to the Finance Department for payment. Any discrepancies in invoicing must be brought to the attention of Accounts Payable and must be resolved prior to payment.

5.5 Contract Closeout

The Contract Administrator must ensure all contract terms have been met, including the delivery of goods or services, submission of final reports, and resolution of any outstanding issues. A formal contract closeout checklist should be completed and filed in the City's system of records. Final payment will not be processed until all closeout requirements are satisfied.

5.6 Records Retention

All contract-related documents must be retained in accordance with the City of Kyle's records retention policy. This includes the original contract, amendments, correspondence, performance reports, and payment records.

5.7 Dispute Resolution

Any disputes arising from contract performance

should be addressed promptly by the Contract Administrator in consultation with the Legal Department. If disputes cannot be resolved at the departmental level, they will be escalated to the City Manager for final determination. Compliance and Ethics

All city employees involved in contract management must adhere to ethical standards and avoid conflicts of interest. Any suspected fraud, waste, or abuse must be reported immediately to the appropriate authority.

5.8 Training and Development

The Procurement Division will provide regular training on contract management best practices and updates to applicable laws and regulations. Contract Administrators are required to attend relevant training sessions to ensure effective contract oversight.

ADDITIONAL PROCEDURES

6.0 EXCESS/SURPLUS PROPERTY

In accordance with the [Code of Ordinances](#) Furniture, fixtures, equipment, or supplies, which are no longer needed by a department, become excess or surplus property and can be sold at public auction.

6.1 Recycling Surplus Property

Surplus property that is irreparably broken or no longer usable for originally intended purposes shall be classified as obsolete and disposed of accordingly.

6.2 Methods of Disposition of Surplus Property

Methods of disposing of City property include, but are not limited to the following:

- a. On-line auctions;
- b. Public auctions;
- c. Advertisements for sealed bids;
- d. Transfers to other governmental agencies;
- e. Soliciting bids from sources, known to use or purchase for sale, like items;
- f. Recycling; and
- g. Trade-in on new equipment when in the best interest of the City.

The City Manager issue may a determination that the material has no commercial value (i.e. expired medical supplies) and that value recovery methods failed or were not applicable.

7.0 CONTRACT REQUIREMENTS

The City's terms and conditions prevail and terms and conditions are required for purchases. A purchase order is required before placing an order. All purchases over \$2,999 require a contract. The Procurement Division will review exceptions on a

case-by-case basis.

7.1 Renewal of Contracts

Efforts should be made to establish multi-year contracts. If a multi-year contract is not possible, one-time contracts (no extension options) can be considered by the Procurement Division.

Extending a multi-year contract will be based on service, delivery, quality of materials and customer service. Departmental recommendations to renew or cancel annual contracts should be submitted to the Procurement Division no less than 120 days prior to expiration of the existing contract.

The 120-day notice is required to allow sufficient time to notify the contractor of cancellation and to re-bid the contract or to advise the City Council of the intent to renew, if applicable. All new contracts in excess of \$49,999 are at the discretion of the City Council.

In the event that the Procurement Division does not receive notice from the user department, the department will assume the responsibility to extend the contract or re-advertise for new bids.

7.2 Bid Specification Development

To expedite the competitive bid process, departments must contact the Procurement Division prior to beginning the specification development process. Ideally, Procurement should be contacted as soon as a requirement is recognized.

The requesting department will prepare the initial specifications; define its requirements by function, stating how the material or equipment is to be used, and required quantities. The specifications should clearly state the minimum acceptable levels for equipment or supply items.

In certain cases, cut sheets, technical handbooks, and industry practices/standards are required to effectively describe the goods or services. This should be done in such a manner as to not restrict competition or be proprietary to a specific manufacturer or supplier. The Procurement Division is responsible for working with departments to ensure their specifications are as fair and open to competition whenever possible.

The requesting department will forward the specifications to the Procurement Division. The Procurement Supervisor or designee will then be responsible for working with the department to refine the specifications and obtain any outside technical assistance as required.

To ensure that specifications are clear, legal, and non-restrictive, user departments must work with the Procurement Division. This ensures proper quality control and avoids specification conflict between departments.

Procurement will forward final specifications to the requesting department(s) for approval prior to the release of the solicitation.

The time required for developing the specifications will vary depending upon the complexity of the item(s) and the availability of information. To facilitate the preparation of the solicitation, the requesting department shall supply the Procurement Division with any/all known acceptable products, acceptable vendors, or any other information regarding the item(s) requested.

7.3 Purchase Requisition

The purchase requisition is used to inform the Procurement Division of the needs of a department and to identify the goods or services requested for competitive quotes, bids or proposals that will be considered as purchases. A requisition must be entered and a purchase order is required before placing an order.

A requisition must be entered before a purchase is made to initiate the Procurement workflow.

7.4 Orders Issued Without a Requisition/Contract/Purchase Order

In the event that orders are made without a requisition and purchase order / contract, the department is responsible for preparing a ratification and presenting it to the City Council if the order is in excess of \$100,000. Orders below \$100,000 will be presented to the City Manager to approve for ratification.

8.0 DOCUMENT PROCESSING

8.1 Identify Funds

It is the department's responsibility to identify a budget within the expenditure category.

When the department identifies funds the requisition may be processed. The department will work the Finance if a budget/funding cannot be identified.

8.2 Processing Time Frames

Requisitions should be prepared far enough in advance so as not to create an emergency situation. This allows the Procurement Division adequate time to secure or assist in obtaining competitive quotes and reasonable delivery by the vendor.

If quotes have already been obtained and a contract is needed for items \$3,000 or greater, but less than \$100,000, the Procurement Division should receive the requisition in the system and complete documentation (quotes, etc.) at least 3 weeks before services or goods are required.

Requisitions in the financial software that do not have the appropriate number and type of quotes will not be approved by the Procurement Supervisor. Proper supplemental documentation must be provided to Council for purchases in excess of \$100,000. If the requisition does not contain this information, it will be returned to the requestor.

Requisitions over \$3,000

All requisitions in the financial software must be pre-approved by the Department Director or their designee and have appropriate GL codes and quotes prior to the assignment of a purchase order.

Requisitions \$1000,000 or Greater

The department shall contact the Procurement Division with enough lead time to allow for the appropriate solicitation, if required. A requisition shall be entered into the financial software and will remain in the system until it is either closed or a purchase order is issued by the Procurement Division, after appropriate solicitations and required Council approval. The Procurement Division will then approve the requisition and create the purchase

order.

9.0 PURCHASE ORDERS (PO)

The purchase order (PO) is the vendor's authorization to ship materials or provide services as specified. The PO is also a contract and is designed to control and expedite the City's procurement process. No orders are to be placed with vendors prior to the issuance of a PO in the financial software.

In the financial software system, the requisition number is tied to the purchase order number, which is also tied to the invoice and final receiving report. Any invoice received where there is no PO will be held until a contract is executed and PO issued.

9.1 Invoices

Under the provisions of Texas Government [Code 2251](#), the City of Kyle is required to pay an invoice within 30 days of receipt. An invoice is an itemized statement of merchandise delivered by the vendor. Invoices are based on the purchase order and the actual delivery tickets or packing slips.

ALL Invoices must be sent to Accounts Payable (AP)

The receiving department shall bring any receiving discrepancies or non-payments to the attention of Accounts Payable.

9.2 Legal Review

The City Attorney or designee may review all documents, contracts and legal instruments in which the City has an interest, at his/her discretion. Equipment, materials, supplies, and service contracts bearing any special terms and conditions, not previously approved by the City Attorney, shall be submitted for such approval and must receive approval prior to issuance.

9.3 Signature Authority

Only the City Manager or designee has signature authority to execute contracts of any nature. Such signature authority is detailed and delegated below:

The City Manager has authority to execute contracts under \$100,000.

The City Manager has authority to execute contracts equal to or in excess of

\$100,000 if approved by City Council in the annual budget or as a city council agenda item.

The Assistant City Managers have authority to execute contracts under \$50,000 if the contracts are procured in compliance with this Procurement Policy.

Only the Procurement Officer has authority to execute contracts between \$3,000 and \$25,000, as all procurements at or above this threshold must flow through the Procurement Division in compliance with this Procurement Policy.

The City Manager may designate in writing a city employee to sign contracts in his/her absence.

9.4 Department Requirements

Departments are responsible for ensuring contracts are compliant with Council directives prior to routing for approval. It is incumbent upon the department to verify the contractor, the purpose of the agreement, including the terms and conditions in an effort to mitigate risk, and ensure consistency in the City's contracting process. Departments shall submit all required forms as required by Procurement.

10.0 Procurement Scenarios

The following procurement scenarios illustrate how Texas municipalities must navigate procurement requirements under **Texas Local Government Code Chapter 252**. These examples provide guidance on various purchasing situations, ensuring compliance with applicable laws.

10.1 Competitive Bidding

Situation:

The City's fleet operations requires a new **City vehicle**, with an estimated total cost of **\$130,000**.

Application of Texas Local Government Code 252:

- According to **Section 252.021**, purchases exceeding **\$100,000** require a **competitive sealed bid** or **proposal** process.
- The Procurement Division must:
 - Advertise the bid opportunity in a **local newspaper** for two consecutive weeks.
 - Establish clear **bid specifications** to ensure fairness.
 - Award the contract to the **lowest responsible bidder** meeting specifications or based on best value.

Key Compliance Considerations:

- Failure to comply with bid requirements may result in contract invalidation.
- Proper documentation and **City Council approval** are essential.

10.2 Professional Services Exemption

Situation:

The City seeks to hire a **civil engineering firm** to design a new water treatment facility.

Application of Texas Local Government Code 252:

- **Professional services** such as **engineering, architecture, accounting, and legal services** are exempt from competitive bidding under **Texas Government Code 2254**.
- The selection process must be based on **qualifications and competence**, not price.
- The municipality must:
 - Issue a **Request for Qualifications (RFQ)**.
 - Evaluate firms based on **experience, past performance, and expertise**.
 - Negotiate a fair and reasonable contract with the most qualified firm.

Key Compliance Considerations:

- Price cannot be considered during the selection process but can be negotiated after selecting the most qualified firm.

- The municipality must document the basis for the selection decision.

10.3 Emergency Procurement

Situation:

A tornado causes severe damage to the City's **water infrastructure**, requiring **immediate repairs** to restore service to residents.

Application of Texas Local Government Code 252:

- Under Section **252.022(a)(2)**, procurements necessary to **preserve public health and safety** are **exempt from competitive bidding**.
- The city may directly contract with a qualified vendor to expedite repairs.
- Documentation must include:
 - Justification for the emergency procurement.
 - Description of the urgency and potential consequences of delays.
 - Selection rationale for the chosen vendor.

Key Compliance Considerations:

- The emergency must be **genuine and immediate**.
- Post-procurement reporting and documentation are required.

10.4 Cooperative Purchasing

Situation:

The City needs to acquire **computer software** for various departments and finds a pre-negotiated state contract through the **Texas Department of Information Resources (DIR)**.

Application of Texas Local Government Code 252:

- Under **Section 252.022(a)(12)**, municipalities can leverage **interlocal agreements** or **cooperative purchasing** programs instead of conducting their own bid process.

- The city may purchase directly from a vendor under an existing **state-approved contract**.

Key Compliance Considerations:

- The agreement must be properly documented.
- The procurement must ensure cost-effectiveness and compliance with contract terms.

10.5 Sole Source Procurement

Situation:

The City needs **replacement parts** for a specific water treatment system, but they are **only available from the original manufacturer**.

Application of Texas Local Government Code 252:

- Under **Section 252.022(a)(7)**, if an item is available from **only one source**, it may be purchased without competitive bidding.
- Justification must be documented, detailing:
 - Why no alternative vendors exist.
 - Manufacturer's certification that it is the **only authorized supplier**.

Key Compliance Considerations:

- The municipality must conduct due diligence to confirm **true sole source status**.
- Documentation must be **transparent and auditable**.

10.6 Public Safety Procurement

Situation:

The police department requires **specialized body cameras** with encrypted data storage, and only one vendor meets the security specifications.

Application of Texas Local Government Code 252:

- Under **Section 252.022(a)(2)**, procurements related to **public safety and security** may qualify for an **exemption** if formal bidding is impractical.

- Justification should include:
 - The security concerns and necessity of the product.
 - Why competitive procurement would **compromise security**.

Key Compliance Considerations:

- The exemption applies only when no practical alternative exists.
- Approval and documentation requirements must be met.

10.7 Takeaways

Understanding procurement exemptions and competitive bidding rules under Texas Local Government Code Chapter 252 ensures transparency and compliance. The City of Kyle must maintain detailed records, ensure fairness, and justify exemptions when applicable.

For further guidance, contact the Procurement Division.